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For January the 1st. 1835.

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THE
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ART. I.—*John Hopkins's Notions on Political Economy.* By the Author of "Conversations on Chemistry, Political Economy," &c. &c.—Second Edition, 12mo, pp. 168. London; Longman. '833.

THIS is a little book which begins ill, but improves greatly towards the end; and if (as is a construction capable of being put on an advertisement at the beginning) the improvement is of two years growth, there is no limit assignable to the services which may in time be rendered to the public from the same quarter. An additional importance is given to the work, from its having been fixed on for observation by the '*National*,' the organ of the party in France to whom the English liberals owe the 'Three Days' and their consequences, and with whom it

is consequently their interest to cultivate the closest understanding. The writer there, after ascribing it to Mrs. Marcet, as is indeed distinctly though not prominently avowed in the title-page, assumes it as a specimen of what he chuses to denominate the '*économie politique anglaise*,' and thence arrives at a sweeping conclusion against all the workings of the human mind on this side of the Channel, which can be brought under such a nomenclature. It may be true enough that there is a great deal of bad political economy got up in England; but it is also true, that there is a spirit of progress abroad there, of which the present work in the difference between its beginning and its conclusion affords an instance, and which will end in working out some of the great political problems favourably to the people, in a way which the supporters of the popular cause in France would do well to emulate and assist. It is easy to see that the political economists in England or some of them, are mining under all the foundations of oligarchical power in that country. There is no difficulty about saying it to the enemy, for there is no secret to be kept; the enemy knows as well as they, that the process is going on, and that he has no means of hindering it. The miners meanwhile, unlike their French allies, say nothing about republicanism; for the simple reason, that republicanism is not the key to the position they attack. If the Government can be made to remove abuses, they care little about the form; and are wiser than to run their heads against needless opposition, by pursuing what after all is of no value but as the means towards an end. It may be said in France, it would be the leading or most efficient means; but the English reformers see a difference in their object. They would enjoy nothing more, than driving the enemy into a corner where he should be obliged to avow that there must be either abuses or republicanism; but they have not been brought to this yet, and they are willing to wait till they are. To transfer the question in England to republicanism, would be allowing the adversary to fall over the ropes, instead of holding up and threshing him. It is pity but this was better understood in France; as tending to produce greater unity between the active liberals of the two countries.

The First Story represents John Hopkins as fretting himself by reason of the extravagance of the rich and his own poverty, and procuring a good-natured Fairy 'to destroy all luxuries whatever.' The object appears to be to impress on the poor the Chinese maxim, that '*The gentry are the hope of the poor people.*' Now nothing certainly can be wider of the truth than this

apophthegm. The proof of it, is in the double way in which the claim for gratitude is applied. The labourer is told to consider his daily bread as what he is to be grateful for to the squire that employs him; and the squire's child is lectured by the same race of moralists, on the gratitude it owes to Hob the ploughman, Ralph the miller, and Betty the dairy-maid, who are so good as to club their respective energies that the scion of aristocracy may arrive at the enjoyment of bread-and-butter. The truth is, that one claim is just as unreal as the other, for two parties cannot mutually make out a claim to gratitude for the same fact. As might be expected, John Hopkins is disappointed in his results; but this does not hinder the whole parable from being built on a wrong foundation. The question was, not whether John Hopkins would be benefited by a destruction of luxuries, but whether he would be benefited by a state of things that should give him a somewhat greater share; and whether it may not be possible to throw wholesome light on the causes that made his actual share so small. It is on this latter point that Mrs. Marcet, with more felicity than has attended on any rival name, appears to be on the verge of taking that 'step into the right,' which would present Political Economy to the world under the figure of a decent matron, freed from the dirt and ignominy with which cribbed and narrowed notions of utility have besmirched her comely brow.

In the Second Story, John Hopkins tries his hand again. He this time begs the Fairy, 'with the stroke of her wand, to cause wages to be doubled.' So John has in consequence double wages, and goes to the market in great glee, bearing in his right hand a basket of plums and in his left a bundle of straw-plait, and only meditating the purchase of clothes for his ragged children with the proceeds. He is delighted to find that plums and plait have risen, in consequence of the increased demand made by the numerous classes on the strength of their double wages. But he is proportionally depressed on discovering that cloth also had risen by two shillings a yard from the same cause. Dick and Sally next come home, with news that they have been discharged by their respective employers, through the inability of the masters to pay double wages to more than half their people. Finally John's own employer sends him word, that he must employ him three days a week instead of six, for a similar reason. Everything goes wrong, and John enjoys no peace till the Fairy's charm is at an end.

Now all this, it cannot be concealed, is wonderfully beside the mark. It is worth no more, than telling a crowd of people who should be working for wages in a ship short of provisions,

that doubling their wages could not make one week's provisions into six. But what men in such a case would naturally desire, would be to know by what circumstances they were brought and kept in this unhappy situation, and above all, how far this knowledge might lead to the further knowledge of the possible means of abatement. They would not say, 'It is manifest that all the wages in the world could not relieve us, therefore let us sit down and enjoy our martyrdom,'—but they would say 'How came you, Captain *This* and Purser *That*, to bring us into this notable scrape for your own base interests, and are not you after thinking, that if there be any port under our lee that you could run into to save our lives and do not, we may chance before our end to bring you to such a reckoning, as to say the least may be *extremely disagreeable*?' This is what people in such circumstances would be apt to say, and if the captain and the purser issued a 'Cheap Repository' tract with the parable of the Fairy, it is not likely that they would much advance their cause. John Hopkins, when he is clothed and in his right mind, will demand to know who it was that brought him into such a plight and how, and will by no means be satisfied by the technical demonstration, that a Fairy's doubling wages would not mend it. He will look for amendment, not from the doubling of wages by a Fairy in his old condition, but from altering his *status*, as the slave-holders call it, altogether; from putting him in the *status* of a man in the neighbourhood of ports where good things grow, instead of a man a thousand miles off with nothing to eat.

The Third Story is an allegory of three Giants, who turn out to be Wind, Water, and Steam. It is chiefly important as leading to the Fourth, entitled 'Population, or the Old World,' a title which it is impossible to help suspecting has been added *après coup*, the truth being that this story marks the period immediately preceding the moment in which the authoress received a call to better things. Poor Dame Hopkins appears to be brought forward for nothing but to excuse herself for having had so many children. A distinct plot is laid, for hindering 'boy George' and 'Betsy Bloomfield' from effecting 'grandchildren,' for which it appears that, at the respective ages of two-and-twenty and nineteen, they have a considerable 'hankering.' The whole business has certainly, up to this, a hopeless look. But the hour of light is never nearer than in the hour of darkness. Betsy's good angel puts somebody upon talking of America, and how 'they may marry young in those parts.' *Rem assu tetigisti*, might exclaim the angel, though too learned for his client. The secret begins to

leak out, that Georges and Betsies in America may follow their hearts imaginations, *because there is nothing to hinder the obtaining food.* In one word, lovers in America have corn. The discovery at first excites an eagerness to go to such happy lands; but this is balanced by the demonstration, that these lands (the distance included) have grievous inconveniences too. Nevertheless—*hæret lethalis arundo*,—the daylight has been made to shine through the Corn-law fallacy. Betsy will never get it out of her head, that prohibiting George from exchanging his work for corn, has something to do with the affair. *Habet*—she hath it—and will keep; and it is hard if her woman's wit does not work out the full solution.

The 'Poor's Rate' Story is a sort of interruption, directed to prove to the poor what they might have found out without, that the Poor's Rate is, or was, a 'treacherous friend.' The poor are prohibited from selling their labour by the rich, in order that the poor may thereby be forced to give to the rich a greater quantity of labour for a given sum. Georges and Betsies may not sell their work and marry upon the produce, but George and Betsy must be kept in the single state, in order that the squire may have their work for less than he would without. The squire's slaves must not only be his slaves, but they must be oxen and "spay'd wyes" in order to increase his profit by them. It is true that a large portion of the sufferers have not wit to find this out; but their lack of wit does not affect the verity of the fact. The temptation held out by the squires is,—'If you will submit to this, you shall enjoy in return—the poor's-rate.' And even this, in their short-sightedness, they have cut down and in great measure taken away; not discerning how powerful a weapon they were putting into the hands of the intelligent among their opponents. Of all outcries, one of the least politic, is the outcry against adversaries who chuse to 'begin at the wrong end.' What could they do better, if the direct tendency is to bring 'beginning at the right end' as the consequence? A pauper population that will endure the pulling down the Poor-rates with one hand, and laying on the Corn-laws with the other, will be a specimen of gullibility on a large scale, not to be credited till seen.

It is lamentable—but what can be done without grace,—that the authoress should have got as far as the end of this Story, without seeing through that most mendacious of ancient apologues, the 'Fable of the Belly and the Members.' The whole question turns upon whether the rich have any real resemblance to that intestine or not. Do they really concoct, digest, and distribute the tuxle and venison they eat, to the

poor man's limbs or to their own? The plea is the same as if the poor should pretend to be the digesters to the rich. In all the communications—at least the honest ones—between the rich and poor, there is a *quid pro quo* on each side with perfect exactness. The poor man gives his labour to rear the rich man's pine-apple, and the pine-apple is the exact compensation to the rich, for the daily potato he may have given to the poor. To claim to be the poor man's 'belly' besides, is fraud.

The Story on 'Machinery; or Cheap Goods and Dear Goods,' is an effective illustration of the effects of machinery upon the labouring classes. But it is only on arriving at 'Foreign Trade; or the Wedding Gown,' that the authoress is found as in the camp of Dan. The enormity of Patty's receiving a French gown as a wedding present, is introduced and fairly grappled with.—

"Why, have not you just heard that your sister Nancy is likely to be turned off at Nottingham, because they will wear so many French ribands?"

"Ay, but," said Tom archly, who could not help thinking of his own prospect, "have not you said that I am likely to be taken on at Leeds, because foreigners wear our English cloths. So you see, father, it is as broad as it is long."—p. 136.

It is not only as broad, but broader. For if Patty's delight in her French gown is obtained at the price of an English one,—inasmuch as the gown must be bought in France with some English goods or other, there is a gain of all Patty's delight. And if it is obtained for less, then the difference of price will be laid out by Patty upon something and somebody, which exactly makes up the difference to English trade in the whole, and Patty will have the value of the difference besides. The whole notion of preventing Patty from having her French gown is an invention to cheat Patty, without a fragment of gain to Patty's country in the aggregate, to balance Patty's loss. One of the Tory publications lately, quietly put forward the cheating of 'nursery-maids' as part of a manly policy;—it is portion of what they wait for Sir Robert Peel for. It positively asserted and declared, that after the balance of free trade was struck, there appeared nothing established but a gain to a—'nursery-maid.' Will the Tories explain why a 'nursery-maid' is to be robbed for love;—or why and how, if it is established and allowed that there is an equilibrium of all other gains and losses besides, the country is to gain through the robbery of its 'nursery-maids?' This is the Tory love for the 'lower orders.'

It is however only in the last Story, on "The Corn Trade ; or, the Price of Bread," that the ready writer gets a full prospect of her mission. The question is fairly met, with no infantine attempts to coax the greedy squire or loutish farmer by the notion that the reduction in the price of his labourer's daily bread is what is to make up to him for the destruction of his monopoly. It is quite another sort of people, that go about in this manner to put salt upon the tails of the landed interest. But a point that would on another occasion be found susceptible of being improved, is the certainty that the landlords in general (with the exception of such as are destined to celibacy, or have the power of supporting their offspring at all hazards out of the public purse), and all their train of tenants and of labourers, are ultimately reached through the impossibility of finding profitable employment for their children. A most pleasant and lamentable history might be indited, of the woes of a country squire, who in return for having his estate nominally raised from two thousand a-year to three, had his seven long sons and eight bony daughters returned upon his hands, to keep as so many miserable annuitants out of the proceeds.

The time is not far off when the public will discover, that the true criterion of the general happiness, the real measure of a home statesman's talent, is in the degree in which he provides for the honest gratification of the master passion, the tyrant instinct, which alone sustains the tragedy of life, and prevents its comedy from being contemptible. To put the proposition in mathematical terms,—*the fluxion of the population* is the measure of the public happiness. What a hateful world would this have been, if in addition to all the other ills of life it had been really true, that man was sent here only to wink and nod at lovely woman through the grate of the preventive check. For decent prudence, moderate foresight, there must under all possible states of society be an incessant call. But the blunder that plays into the hands of squire-made law, and cuts off all the poetry and all the charities of life to gratify the public enemy with wealth which after all turns only to dust and ashes in his grasp,—can last no longer than till warm hearts and benevolent imaginations apply themselves to crush the public feud by showing to all classes the folly of the whole.

How "beautiful upon the mountains" would be the feet of a woman that brought these good tidings of peace. And what a contrast to the tormenting misery, of seeing an educated female grappling with things that men hardly talk about, hint to one another in nods and whispers, conceal from little boys, and

involve in mystic symbols like a design upon the national debt; and all this when a quarter of an hour's good counsel might have started her as an angel of light; to beautify this nether world, with all that womanly grace can add to manly knowledge. What needed there to have been from which either maid or matron should turn away, — whether her harp had rung the ancient chords to 'Cupid lord of gods and men,' or the Frenchman's lighter lay '*C'est l'Amour, l'Amour, l'Amour, qui fait le monde à la ronde.*' John Hopkins by heaven's grace has been preserved from any absolute tumble into the quagmire in his last excursion. Will he not come forth again, a kindly and a loving man, and make the *amende* to any of his youthful kindred he may have terrified into unhappiness?

ART. II.—*Memoirs of the Court of King Charles the First.* By Lucy Aikin.—2 vols. 8vo. Second Edition. London; Longman 1833.

THE contest between prerogative and popular rights, is a story that never tires. Narratives of our Civil Wars during the seventeenth century, derive an unfailing interest from the importance of the principles at stake, and the numberless sympathies which they awaken. Even when political and military details are to a great extent avoided as in the present volumes, '*Memoirs of the Court of King Charles the First*' bring at once upon the mind such a combination of circumstances and characters, with so many recollections and associations, that an author would indeed be dull and unskilful, under whose hands the reader waxed weary.

How overcast and confused the earlier conceptions of many modern philosophers were as to civil and religious liberty, must be apparent to every well-informed reader. Not to go further back than the era preceding the Revolution of 1688, bishop Burnet and his friends, although actuated by the best intentions, yet evinced in their conferences with Lord Russell before his execution, the truth of this remark. Greek and Roman history had spoken in vain. Aristotle, Demosthenes, and Lucan at a later period, had shed the lights of their genius upon the imaginations, more than the heads or hearts of mankind. Longinus had shown the connexion between freedom and the sublime, alloyed indeed by the slavish maxims and spirit of his times; but all these, like the lore or lumber of the middle ages, were the lessons of schools attended by comparatively few, and identified among those few, with the rod of the pedagogue, or

the dulness of the cloister. It required an appeal to the common sense of ordinary people, before the veil could be torn down from the conjurations of political mystagogues, so that men might learn in masses the rights of which kings and priests and nobles had deprived them. The judicious Hooper entertained, and in the latter books of his *Ecclesiastical Polity* developed, a predilection for liberal principles of government, which was afterwards amplified by Locke, and applied to the constitution in church as well as in state. Yet these were only flashes in the dark, sparkles in the mine, glow-worms in the libraries of the contemplative and the curious. Stern oppression it was, that roused the country at last. In the solitude of a prison, even the father of Sir Harbottle Grimstone had learned the grand axiom 'that allegiance and protection were mutual obligations; and that therefore the one went for the other. He thought the law was the measure of both, and that when a legal protection was denied to one that paid a legal allegiance, the subject had a right to defend himself.' [*Burnet. Hist. of Own Times*, 8vo. vol. i. pp. 495-6.] Such was the *Magna Charta* of nature felt in force by a favoured few, long before it came to be generally known or understood. It involved the rights of persons, property, and conscience; all of which, British princes had held, and were resolved to hold, in avowed contempt; until at length dawned a day of account, ushered in with the horrors of civil war, and leading to the catastrophe at Whitehall.

The Tudors had extended their authority far beyond that of their predecessors, who were circumscribed and overawed by the arrogance and feudal influence of their nobles. They handed down an example for the Stuarts, which the latter seemed nothing loth to follow. Subjects then enjoyed a mere mockery of liberty, under the realities of despotic sway. Hallam has justly observed, that transgressions as well of natural as of positive law, rendered courts in England little better as to cases of treason, than 'the caverns of murderers.' With an inquisitor for a judge, with the crown for prosecutor, entrenched in as many privileges as Elizabeth wore ruffles, and with a phantasm of freedom in some passive pusillanimous jury, every culprit was a doomed victim, tortured with the forms of a trial, like a mouse under the claws of its tormentor. The writ of *habeas corpus* although nominally always matter of right, at least after the affair at Runnymede, proved a barrier weaker than a cobweb, against illegal commitments and arbitrary detentions. Proclamations unwarranted by the constitution, restrictions on printing and the diffusion of free inquiry, delays in the administration of ordinary justice, and equity so called, but extending an open

and an itching palm, disgraced the bench, demoralized the bar, and disheartened suitors. Sometimes on very slight pretences, a provost martial was set like King Stork over a district, where he loyally kept the peace by feeding the gallows, to weed out troublesome spirits, or suppress a reputed rebellion. Monopolies were suffered to impair, if they could not extinguish, commerce; while forced loans, in relieving wealthy but unwilling citizens from their golden plethora, superadded the prospect of an imprisonment in the Fleet, with a continuance of the punishment apportioned to the degree of the contumacy. Parliaments held the humblest language, until puritanism and oppression had braced the nerves of patriots in their addresses to the throne or its ministers. True it is, that before the close of the sixteenth century, occasional protests had been made on behalf of liberty of speech, the assertion of personal privileges, and against monopolies. True also it is, that the greatest statesmen, such as Knollys, Hatton, and Robert Cecil, not only sat among the commons but supported a leading part in their discussions; and that sixty-two members were added by the Queen at different times to the representation, to counterbalance opposition and provide room or employment for her dependants. Yet on the whole, a crouching if not a cringing mien, and a fawning tone, were the characteristics of parliamentary manners and language on the one hand; while on the other, the pretensions of the crown spread luxuriantly on all sides, often encouraged and nourished, or at least always unchecked, by the pride of the aristocracy, the artifices of an interested hierarchy, and the adulation of a prostrate because an uneducated people.

Bishops, flatterers, and his "poor commons" inflated the empty self-importance of James I, until he doubtless believed in his heart, that as the Lord's anointed, he possessed in his own proper person, and was obliged to transmit to his descendants, an authority absolute and above all law, law being a thing 'to which,' in his own phraseology, 'although a good king will frame all his actions, yet he is not bound thereunto, but of his own free-will, and for example-giving to his subjects.' [*Works of James I*, p. 207.] In the lower house, upon one important occasion, a member stood up and said, 'The prince's command is like a thunder-bolt, his command upon our allegiance is like the roaring of a lion, to his command there is no contradiction; but how or in what manner we should now proceed to perform obedience, that will be the question.' In plain words, a learned pedant was seated on the throne of three fair kingdoms, and corruption stood at his right hand. He loved to be styled the Solomon of his day, and in one sense he answered to the description, for he

not only 'chastised his people with whips,' but was preparing for them a hopeful successor, who 'would visit them with scorpions.' This royal scourge, his second son, was born at the castle of Dumfermline in Scotland on the 9th of November, 1600. A curvature in his knee, and an impediment in his speech, though noticed by most among his contemporaries, were of slight importance when compared with those painful symptoms of obliquity in morals and disposition, which marked his opening years. His wilfulness and obstinacy must have indeed been invincible, to have called forth such broad statements respecting them as are given by Perinchief and other courtly encomiasts. The old Scottish lady presiding over his nursery, used to affirm, that he was 'of a very evil and unthankful nature, even in his infancy;' and though these faults of temper were held in check during his subsequent career, by the expansion of fair talents and a cultivated taste, it is affecting to observe, that perfidy from the very first seems to have grown with his growth, and strengthened with his strength. Whatever may be thought of man's natural propensity to wrong, the young prince came as near as possible to one of those who 'as soon as they are born, go astray and speak lies.' His servants, tutor, companions, and parents, all became dupes by turns, in a thousand little ways, of a vice lawfully begotten from the kingcraft of his father, and the detestable hypocrisy of his household. Truth could not have lived a moment in an atmosphere haunted by wretches like Buckingham and Holland. Treachery and falsehood formed the essence and staple of their manners. These vices, instead of breaking forth only here and there, existed to saturation through whatever they thought, and said, and did. Intrigue among the courtiers of this time was what honesty is among ordinary men,—the bond which holds every thing together. Mammon, ambition, and profligacy reigned triumphant. To have unveiled the vile and various processes of their operations, would have startled Asmodeus himself, and rivalled those chambers of imagery, in which the idolatries of an apostate people were revealed to the survey of the prophet.

On the demise of James in 1625, his good-natured subjects looked out for a change of measures; and, as might have been expected, they experienced sore and thorough disappointment. No change was made except for the worse. The handsome favourite 'Steenie' took a new lease of his power; the lord-keeper Williams, a less wicked man than he, was disgraced through his influence; he made a splendid appearance at Paris in a white velvet suit studded with diamonds and valued at 80,000*l.* as ambassador from his master, to conduct a foreign

queen to England; the crown-jewels, it was imagined by some, had been lent him to augment the blaze of his magnificence among strangers; and his unpardonable insolence towards Anne of Austria, received neither punishment nor rebuke on his return. Then came the first parliament of Charles, opened by himself in person, on the eighteenth of June, when as an assertion of his right divine, he wore the emblem of sovereignty on his head, contrary to the custom of English kings previous to their coronation. His speech was brief, peremptory, and marred with a considerable blunder. Identifying the present assembly with its predecessor, he ventured to remind his hearers, that he was engaged in a war undertaken by their advice; upon which incorrect statement he proceeded to demand the necessary supplies. Public opinion had shot up a little of late. Some members presumed to touch upon a previous redress of grievances; others desired an account of the last subsidies granted for the recovery of the Palatinate, and squandered by the court according to custom; several more alluded to the conduct of the crown in dispensing with the laws against popery; and many pressed for the repeal of a duty on wines, imposed by the deceased monarch without the consent of parliament. A vote nevertheless passed for two subsidies, as 'the first fruits of their love to their prince.' That prince deceived them with a compliant answer to their petition against the Catholics, and insulted them for interfering with what he called his prerogative in sundry important matters far above their comprehension. An ungracious carriage aggravated the commencing irritation. He invaded their acknowledged jurisdiction, in the case of Richard Montague's book on 'Appealing to Cæsar'; he lent ships to Louis XIII of France to blockade Rochelle and ruin the cause of protestantism in that devoted city; and on the House of Commons becoming justly incensed, he abruptly dissolved it, and inflicted a forced loan upon the kingdom. Though neither he, nor his people, nor their representatives understood the entire bearings and nature of the question at issue, and though most lamentable ignorance prevailed as to liberty of conscience,—yet Charles was now, what he continued to be, a manifest aggressor in the quarrel; and while as to many prominent points, light was breaking in upon the middling classes; he had unhappily embraced the Church for a guide, who blinded his eyes with her incense and solemnly led him to destruction.

Among the grievances complained of about this period was 'purveyance,' or the right of impressing carts or carriages, and exacting victuals professedly for royal use, at prices far below the real value, and in quantity beyond what was necessary, under

pain of imprisonment in case of resistance, by the Commissioners of the Board of Green Cloth. Bacon describes the purveyors some years before, as living at free quarters upon the country, cutting down timber without consent of the owners, and commanding labour with little or no recompense. Restrained as was this regal right of spoil by no less than six-and-thirty statutes, the evil had augmented rather than diminished. The sovereign was in fact a Rob Roy on a large scale, the Richard Turpin of the nation; and his representatives were licensed highwaymen and freebooters, levying an abominable black-mail from their fellow subjects. Twenty years before the accession of Charles, the Commons had passed a Bill for the regulation and ultimate suppression of the nuisance. The House of Lords however, then, as now, the roosting-place of abuses, indignantly rejected it, shocked, of course, at the disloyal attempt to abolish so conservative an oppression. Incidents of military tenure, such as guardianship in chivalry, most galling and ruinous to those whom they concerned, had also been extinguished by the same House of Commons; but they too were rescued from annihilation with similar care by the paternal patronage of the peers. Wardship therefore, with all its lucrative and offensive tyranny, remained flourishing in full force and virtue. The usurped jurisdiction and inquisitorial courts of Star-Chamber and High Commission were not as yet attacked. Their machinery of tremendous influence in the way of secret trial, discretionary punishment, and modes of procedure unknown to law, whereby any man under specious pretences might be deprived of his liberty and property, or be coerced in his conscience, escaped the animadversion of British patriots in Parliament until a later season; so that at this crisis, the person, goods, or opinions, of no single individual could in reality be free or secure. It is scarcely possible to conceive the ten thousand instances in which all these vexations acted like sackcloth on the public mind. Every sore place must have been moreover inflamed beyond endurance by the odious system of caste, which had as yet received no considerable blow. If an aggrieved and exasperated community turned their eyes to their constitutional protectors in the lower House, listen to the language of the lord-keeper Coventry, when he opened the session, and addressed the House as follows.—If we consider aright, and think of that incomparable distance between the supreme height and majesty of a mighty monarch, and the submissive awe and lowliness of loyal subjects, we cannot but receive exceeding comfort and contentment in the frame and constitution of this highest Court;

wherein not only the prelates, nobles, and grandees, but the commons of all degrees, have their part; and wherein that high majesty doth descend to admit, or rather to invite the humblest of his subjects to conference and counsel with him.' [*Parl. Hist.* 39.] The domestic unhappiness of the monarch might and ought to have softened his bosom towards the millions afflicted with the misery of his arbitrary and unconstitutional government. But such is the perverseness of human nature, that as one murder makes a villain but thousands a hero, so whatever operates for good or evil to an enormous extent, appears to command either applause or sympathy, as if essentially comprising within itself one of the elements of the sublime. General compassion, therefore, however strange it may seem, takes the side of the great oppressor rather than of the multitude oppressed. Few are the memorials, and small the commiseration they excite, for those who groaned in secret under a system of administration, which must so often have struck at hearts as honest, if not so courageous, as the mighty ones of the field or the senate. On the other hand, every disagreement between the Stuart and his foreign wife, his trouble from her attendants and capuchins, the intrigues of Blainville and Bassompierre, the distress and mortification of the royal family, are all minutely detailed, as though their nerves and flesh and blood had been woven of another texture than our own. At the coronation, an order was issued directing all persons possessed of landed property to the amount of 40*l.* per annum, to receive the dignity of knighthood, or compound for the omission by a fine fixed at discretion. The second parliament of Charles was as loftily treated, and about as absurdly dissolved, as the first; nor did the third experience different treatment, or manifest more spirit and dignity. The servility of their Speakers, who like more modern ones, 'extolled the king, praised monarchy, parliaments, bishops, commons, laws, and judges,' only served to exasperate the successive Houses. Some of the most popular leaders were compelled against their will to serve as sheriffs, that they might be disqualified from taking their seats. Reiterated consideration and discussion of grievances, the charges against the duke of Buckingham, the domination and interposition of the lords, disputes between the crown and the lower house, a constant pressing from the court party for pecuniary supplies, the oppressive treatment of Williams bishop of Lincoln, as well as the Earls of Bristol and Arundel, the grossly illegal incarceration of Sir Dudley Digges and Sir John Eliot, and the levy of tonnage and poundage, went far towards rousing the slumbering lion. Men of

integrity and reflection grew more and more convinced that they must take under their own management, and into their own hands, the necessary business of reform. Such a labour they well knew must be operose, as the prospect of its achievement was perilous. Yet, putting their lives and fortunes in jeopardy, the majority never looked back. The Church in the meanwhile crossed herself for grace, stroking her lawn sleeves with gratulatory impressions of their purity. She meddled with sabbatarian prejudices, some of the most dangerous playthings in the world. She uncovered her head and returned God thanks, when a preacher, an author, or a printer, lost his ears. She fleeced and flayed the flock she was sworn to feed, but upon which, by a felicitous mistranslation or misapprehension of her bridegroom's injunction, she devoutly and luxuriously fed. Never to so great a degree had the general hatred enveloped the 'altar and the crown.' Every thing went forward from bad to worse. The evasive conduct of Charles on the Petition of Rights, scattered to the winds whatever might have remained to him of attachment, respect, or affection. He stood exposed, yet shameless, before his people, a detected hypocrite, an unmasked tyrant, willing to delude others if he could have done so, but himself irretrievably deluded. The Commons made a solemn vow to resist ecclesiastical oppressions and encroachments; ministers of state, and bishops on their own bench, were attacked with a vehemence and an ability before unknown. As the authoress forcibly observes,—

'English law had been trampled upon, English liberty cried aloud for champions and asserters, and not in vain; deep thoughts and high resolves were maturing in manly bosoms; great and important principles were to be laid down; noble sentiments to be uttered and inspired; and they seized at once upon the language of truth and nature, as their inalienable right.'—Vol. i. p. 193.

Among those who did so, few had shone with greater lustre than Sir John Eliot, the only son of a Cornish gentleman of family and fortune. Having sitten in parliament successively for the boroughs of Newport and St. Germain's, he was finally elected one of the representatives of his native county. A sally of passion in his youth promised ill for his future career, yet this fault, which seems to have been forgotten by all but himself, made his subsequent command of temper the more remarkable. He was a pure and magnanimous patriot; one of those who suffered a protracted confinement in the cause of liberty and his country. The bitterness of this captivity, in excluding him from whatever is dear upon earth, soothed his mind into such

calmness and security as rendered it a reflection of Heaven before he arrived there. Season after season stole away, amidst some occasional mitigations, which allowed him to indulge in literary pursuits and philosophical disquisitions. But towards the close of 1631, these alleviations were withdrawn, and his lodgings removed to 'where candle-light might be suffered, but scarcely fire.' He thus proceeds, at Christmas, in a letter to Hampden;—

'I hope you will think that this exchange of places makes not a change of mind. The same Protector is still with me, and the same confidence; and these things can have an end by Him that gives them being. None but my servants, hardly my sons, may have admittance to me. My friends, I must desire for their own sakes, to forbear coming to the Tower: you among them are the chief, and have the first place in this intelligence.'—vol i. p. 270.

Soon afterwards, an illness, of which cold was the original cause, undermined his health, and dug his grave. His Majesty rejected one of his petitions for a little fresh air, because 'it was not humble enough.' A second application proved equally vain, from the informality of its not being presented through the lieutenant; and when prompted to make a third attempt, the prisoner declined. His spirits, he said, were grown feeble and faint; and indeed death soon afterwards arrived as a welcome release. His son and heir besought the king that he would permit the ashes of his father to be interred in Cornwall; whereto was answered, at the foot of his petition, in the royal handwriting,—'Let Sir John Eliot's body be buried in the church of that parish where he died;'—and so he was buried in the Tower.

'The Duke of Buckingham had left his master without a favourite, and without a prime minister, and he gave him no full successor in either capacity. The haughty temper of Charles had caused him to repel with disdain the suggestion that he was ruled even by the duke, and henceforth he seems to have conceded to none but his queen that ascendancy which is founded upon affection. Neither did his propensities lead him to devolve on any substitute the toils and cares of state. Habitually punctual and industrious, he willingly gave his time to the ordinary routine of public business; fond of power, and jealous to excess of what he considered as popular encroachment, he was prompted by cogent motives, to exercise a constant vigilance over every question or incident bearing a political aspect: and with respect to the odium or eventual danger which he might incur by taking upon himself the prime responsibility of the highly unconstitutional system of rule which he contemplated, he too much disdained the people, he too literally believed that the King's name is a tower of strength, to shrink from it a moment. The official persons, there-

fore, who at this time composed his council, can be regarded in no other light than that of subordinate instruments.'—vol. i. pp. 274-5.

This may be true as to Portland, Coventry, and Manchester; but will by no means apply to Hamilton, Laud, and Strafford. The first was a wily politician, said to have been in the queen's secret, relative to her adultery with Jermyn; and who, committing himself to the labyrinth of intrigue, became entangled with those whom he served, in one set of perplexities after another, until his advancement terminated in a dukedom, and his life on a scaffold. The Archbishop of Canterbury was altogether a more remarkable person. He was born to be a clergyman and a courtier. Supple as a willow when pliancy was essential to his success, the qualities of his intellect and disposition grew harder as he waxed rich, potent, and old. Engrafting zeal for his order upon a selfishness which he thus contrived to disguise and perhaps forget, he grew into an incarnation of the principles of priestcraft,—a polymorphous monster, with 'horns like a lamb, but speaking as a dragon.' He was certainly not a Protestant, in the sense at least of his immortal contemporary Chillingworth; and to have embraced popery would have cost him his preferment. He therefore aimed at a popedom of his own creation, over the establishment to which he belonged; wherein he hoped that his archiepiscopal pretensions might remain suspended midway between truth and superstition, like the fabled coffin of Mohammed between its loadstones at Medina. Approaches to absolute authority, and much more its actual possession, will always harden the heart. Laud lived to be as cruel as a familiar of the Holy Office in Spain, before the fangs of persecution struck into his own soul. He wanted Felton to have been stretched upon the rack. He gloated over the agonies of the Puritans when they were writhing under the shears of the executioner. Rome proffered him her purple; but the world, the flesh, and the devil, for once refused the Cardinalate. Yet he willingly accepted from Oxonian sycophancy the fulsome titles of Holiness, High Priest, and Archangel. Prelacy was the Alpha and Omega of his creed; his darling, his idol, his all in all. He would have extended its domination from pole to pole had it been possible; without a scruple at using the temporal sword, or allowing a harem of wives to the laity, if the clergy would but have consented to lie alone. Feared by many, and loved by none, he could condescend to pick a quarrel on the score of a few ill-timed jests with poor Archy, the King's fool; who was finally condemned, by a solemn order in council, to be dismissed from his place, and have his coat pulled over his head, at the sole

and reiterated instigation of his pious and most reverend prosecutor. His friendship for Strafford was fervent exactly as long as that nobleman promised to prove subservient to his ecclesiastical views, and no longer. The impression he gave to the Universities, and Oxford in particular,—the influence he exercised over his master's bigoted and obstinate mind,—the union he so patronized between church and state,—the spirit of despotism, with which he contrived to inoculate the former,—survived his violent end, and have left vestiges which can scarcely be mistaken, for the examination of the present day.

Strafford was the second great man for Charles, after he had entered into his league with Laud, having first most basely apostatized from the patriotic party. As Sir Thomas Wentworth, he had been a popular leader in company with Coke, Phillips, Alford, Fleetwood, and others. He was one of the seven involuntary sheriffs, to whom allusion has already been made, so fearful was the court, at that time, of his extraordinary talents and demeanour. Indecision was however no feature of his character; and whatever might have been the price paid for his enlisting in the opposite ranks, he threw body, soul, and spirit into the bargain. His genius seemed always in armour; so polished was its aspect, so unbending its strength, and so heavy was the hand with which he held the helm of affairs. The northern counties of England, Ireland from Cape Clear to the Causeway, the Scotch in Ulster, all felt his sway and groaned. The baton of government in his grasp was 'the most grievous crabtree cudgel' ever wielded since the days of Giant Despair. Lord Mountnorris and Chancellor Loftus could have given an account, on coming just alive out of his power, as melancholy as that of Christian and Hopeful in the Pilgrim's Progress. The Greatheart that slew him at last, was the roused indignation of a whole people, made fully aware, that he and the Archbishop were the two chief delinquents, under the shadow of an unconstitutional sovereign. There was something like a doomed destiny, as if the mark of the axe had been on his forehead, in his coming up to face the Long Parliament. His courage for once had seemed to have quailed; and he implored the ruthless and deceitful Charles, that he might be allowed to remain absent. But no;—he had ruled a similar assembly in Ireland with so high and skilful a management, that none could so well know how to abide the gathering storm. It burst with a clap of thunder. The King had assured him, under his own signature, that not a hair of his head should be hurt. Pym moved his impeachment; the blow was struck; and then it was seen that a favourite has no friends. The House of Lords consigned him

on his knees to the usher of the black rod. On his way to the coach, no man doffed his cap to one who, ten minutes before, was the greatest subject in England. The question of the responsibility of ministers was decided by his condemnation. Charles, as usual, forfeited his word; and "Put not your trust in princes" was the final murmur of the mighty, but disappointed Strafford. Supporting himself in a manner worthy a better cause, he paid the penalty of his crimes.

Before this master stroke of Puritan policy was achieved, there had occurred the dreary interval of eleven years; during which the Crown had partly subsisted by public robbery, pursuing its oppressive and audacious course, unable to justify its administration, and yet afraid beyond all sublunary things of conjuring up the sceptre of a parliament. Charles's revenue throughout the whole of this period, can hardly with accuracy be ascertained. In 1633 it was 800,000*l*. By a parliamentary report, drawn up after the Restoration, it would appear that from 1637 to 1641, it averaged about 900,000*l*. per annum; of which from 200,000*l*. to 300,000*l*. is admitted, even amidst the extasies of that æra of servility, to have been derived from illicit sources. Compulsory compositions for knighthood produced 100,000*l*., according to Mrs. Macauley; and the revival of the iniquitous forest-laws must have brought in considerable sums to the treasury. Monopolies were also multiplied; and no Jew ever cheated more royally and basely than did the needy occupant of the British throne, in dealing with his subjects on these matters. A soap-company undertook to pay eight pounds sterling for every ton of their manufacture, besides 10,000*l*. for their charter; yet some time afterwards, the king received money from a new corporation of soap-makers, having revoked his former patent. Kerney, Rushworth, and Rymer, mention a variety of similar grants to starchers, gold and silver smiths, inn and alehouse keepers. In 1639, all these were called in and annulled; as well as a number of commissions that had been issued to obtain money by compounding with offenders against penal statutes. Eight years before, Charles, though an avowed Protestant, had engaged by secret treaty to assist his Most Catholic Majesty of Spain, in conquering the Commonwealth of Holland, retaining, himself, the isles of Zealand as the wages of his perfidy. The policy of Great Britain towards the Dutch throughout this period was insidious and inimical in the highest degree; and strange to say, Charles is found within twelve months attempting to play one of his double games against the court of Madrid, by negotiating with a disaffected party in the Netherlands for obtaining the sovereignty over those provinces, which

were to declare their national independence. Spain detected the intrigue and never ceased to remember it. Thus meddling with foreign politics, and endeavouring to persuade Austria to restore the dethroned elector, he hence and from other circumstances, borrowed some colour for levying ship money, which was afterwards carried into execution as a general tax; contrary, in the last respect at least, to all former precedent. London for daring to remonstrate was mulcted in a sum of 35,000*l*. John Hampden's refusal to pay twenty shillings on this score, has embalmed his memory and preserved his name in the bosoms of a grateful generation. The annual amount returned to the Exchequer was frequently above 160,000*l*. and sometimes more than 200,000*l*., although latterly it vastly declined. Billeting soldiers upon private houses, formed an intrusion into families at once cruel and intolerable, and at the same time was gainful to government only as arming it with the means of annoyance. Many royal proclamations also appear to have been used as vexations; in the way of political whipcord, rather than a fountain of lucre. Poultry, butter, eggs, and coals had their summer and winter prices affixed or altered, which carry us back to the capitularies of the dark ages, and must have terribly harassed our hearty forefathers and foremothers in the seventeenth century. Tradesmen and artificers were arbitrarily incorporated by inconvenient decrees from St. James's; apprenticeships were tampered with; and the security of freehold rights vanished before orders in council for demolishing houses and shops, because they offended against good taste, or blocked up the avenues to St. Paul's. The instance of the Ulster plantations, wrested by the crown from the City, notwithstanding the lord mayor and aldermen had thrown no less a sop than a fire of 70,000*l*. to the Cerberus, is well known. Charles swallowed the bribe; but not an acre of the extensive estates was disgorged. Imprisonment would have been the result of any official complaint; and the foundations were laid of an abhorrence towards monarchy within Temple Bar*, not to be appeased by less than the ensuing convulsions. The mountain of national grievances had thus grown to an enormous height. Sir Robert Cotton the antiquary was openly deprived, and without any other ostensible reason than the will of his rulers, of an invaluable library, the

* Even as late in the civil war as Waller's famous engagement, Pym declared in the House, how the poet and his fellow conspirators ascertained that 'within the walls, for one who was for the king and royalists, there were three against them.'—See Clarendon and the Parliamentary Hist. vol. xii.

loss of which shortened his days. Persons going beyond seas had oaths imposed upon them revolting both to conscience and common sense. No wonder that thousands of the middle classes felt for their swords. Too many among the aristocracy shared in the spoils, and laughed at the plebeian scoundrels aspiring to become politicians and gentlemen. The prelates of the land joined in every such amusing cachinnation, which served to season the tedium of their pomp and parade, as Doctor Bastwick has described to the life, in the following extract;—

‘Take notice of the sumptuosity of their service at their meals, their dishes being ushered in with no less reverence than the king their lord and master’s; their sewers and servants going before and crying out, “Gentlemen be uncovered, my lord’s meat is coming up.” So that all are forced to stand uncovered to his platters, and no more state can there be in a king’s house. To say nothing of the bishop of London that was put into his office with such supreme dignity and incomparable majesty, as he seemed a great king or mighty emperor to be inaugurated, or installed in some superlative monarchy, rather than a priest; having all the nobility and glory of the kingdom waiting upon him. But see the prelate of Canterbury in his ordinary garb riding from Croydon to Bagshot, with forty or fifty gentlemen, all mounted, attending upon him; two or three coaches, with four or six horses a piece in them, all empty waiting on him; two or three dainty steeds of pleasure most rich in trappings and furniture likewise led by him; and wherever he comes his gentlemen ushers and his servants crying out “Room! Room! for my lord’s grace; gentlemen be uncovered, my lord’s grace is coming.” Again if you should meet him coming daily from the starchamber, and see what pomp, grandeur, and magnificence he goeth in; the whole multitude standing bare wheresoever he passeth, having also a great number of gentlemen, and other servants waiting on him, all uncovered, some of them carrying up his tail: others going before him, calling out to the folks before them to put off their hats and give place: tumbling down and thrusting aside the little children playing there; flinging and tossing the poor costermongers and souce-wives froit and puddings, baskets and all into the Thames, (though they hindered not their passage?) you would, think, seeing and hearing all this, and also the speed and haste they make, that it were some proud mighty Nimrod, or some furious Jehu, running and marching for a kingdom, rather than a meek, humble and grave priest.’—vol. i. pp. 349—351.

In one word the val of wrath was full, and vengeance emptied it to the dregs. Philanthropy itself need not flinch from looking at a warfare, which for the small amount of mischief perpetrated, stands unrivalled in historic annals; and of which the stake fought for, was no less a boon than civil and religious liberty. Faults of detail, both in motive and conduct, may

doubtless be raked up even against those, whom nearly all now acknowledge to have struggled on the right side. There was too much godliness taken for granted; there were too many mutual recriminations and condemnations, extending sometimes in blasphemy beyond the bourne of the grave; there was too much commingling of sentiments and professions which should have been kept separate; selfishness sometimes absorbed patriotism; and both were often forgotten or swallowed up in passion. But when it is remembered that the fire of three nations was stirred with the sword of civic warfare, the wonder is, that the best feelings of human nature endured and survived the conflagration. Scotland began the strife; for in that land John Knox had dropt his mantle, when his stern soul ascended to its reward. The prosecution of Lord Balmerino, the advancement of the prelacy to participation in secular power, the offensive compilation of canons and a liturgy for the Scotch churches, opened the eyes of men at Edinburgh and Glasgow. Tumults in those places, to suppress which the crown had very trifling means at command, led gradually through the king's obduracy and blindness, to the institution of the Four Tables as they were termed, and the Solemn League and Covenant. The former were deputations representing the different interests of the nobility, clergy, gentry, and burghers of North Britain; all loud and unanswerable in their demands for the withdrawal of the late obnoxious measures, the abolition of the High Commission, a restriction of episcopal arrogance, the restoration of the privileges of assemblies, and the convention of a Parliament. The exchequer was at its lowest ebb. Laud, Wentworth, and more especially Northumberland, then Lord Admiral, caught the alarm. Their discernment penetrated the clouds so rapidly gathering round their devoted master. That master would listen to no advice based upon a developement of the real state of his affairs; although his ears were ever open to the adulations of the Earl of Antrim, a weak and wicked counsellor, destined to embroil his employers, and accelerate the royal ruin. The king was bent on reducing the Covenanters by force; and like the wild ass in the wilderness, none could turn him away in his occasions. Military preparations were expedited. The queen, at her husband's request, applied to the Catholics. The pope interfered, so that, after all, the brunt of the burthen fell upon the dignified clergy of the establishment; their bigotry being soothed with the idea, that the war was to be a religious crusade against presbytery, on behalf of deans and chapters. Troops were to be enlisted in the Low Countries, by permission of Spain, who now paid her enemy in his own

coin, by tantalizing him with present hopes to terminate in final disappointment. Cardinal Richelieu meanwhile assisted the Covenanters with the seasonable sum of one hundred thousand crowns, the sole aid, besides the release of some embargoed arms in Dutch ports, which their sagacious leaders would accept. Their chief reliance was on the soundness of their own views, the support of their country, and the sympathy of the disaffected in England. Nor was their reliance vain.

Charles having assembled his army at York, disgusted his warmest adherents by the imposition of a military oath; a circumstance only worth mentioning as the hundredth instance of his folly, even where his most favourite objects were in jeopardy. Berwick was occupied; but the subsequent failure of his arms at Dunse paved the way for the reception of pacific overtures, and concluding a treaty. He had clearly failed in everything he had intended to perform. He had neither defeated nor deceived his opponents; who instead of being lulled into security by the peace, grew daily more and more jealous of their sovereign. After the interlude of coercing Ireland through the instrumentality of Strafford, and endeavouring to lay such a train of events as should enable him with Hibernian or foreign forces to play the same infernal game in England, writs were issued for an English parliament in 1640; and on the 13th of April its members assembled. It was soon made clear, that although the king's tone seemed a little lowered, he had abandoned none of his pretensions; and that all he had in view was to obtain money for his emergencies. A dissolution speedily ensued. Incarceration awaited the popular leaders as on former occasions. Exasperation on all sides was augmented. A Convocation, with new canons and the famous *Et Cetera* oath, shocked all reasonable men with the established church and its hierarchy. Lambeth palace was attacked by a mob, of whom one unfortunate person, a drummer, being taken, was punished for high treason, and racked in the Tower, probably under the auspices and sanction of Laud. Charles resumed his illegal practices. He impressed a large number of soldiers, demanded their coat and conduct money from the different counties, raised by force provisions, fodder and carriages for their support and conveyance, took up on government credit a large quantity of pepper to be sold much under its value, seized the bullion at the mint, would fain have debased the coin, and squeezed from his wealthy friends and followers a loan of 300,000*l*, which they were said to have cheerfully subscribed in a few days. The mitre, the coronet, and the crown, were drawing closer and closer to each other, to stand or fall together in the hour of trial. Then began the

second Scotch campaign, analogous in most of its circumstances to the first. The rout of Newburn brought the Covenanters to Newcastle, who though they had been proclaimed traitors by the king, were not the less acceptable guests to a large and increasing section of the English patriots. Their sovereign was in an agony of despair, and his advisers blushed for shame. Peers, privy-councillors, citizens, clamoured for a parliament. The treaty of Ripon, providing good winter-quarters for Lesley and 850*l.* per diem for his troops, secured an arm of strength to be wielded, if necessary, against the throne; and on November the 3rd 1640, that ever memorable assembly, most desired by the people and most dreaded by the monarch, was convened in London. It was a glorious day for these Islands, though its brightness was not to remain unsullied. Strafford and Laud almost immediately fell. Windebank the secretary escaped to France. Finch was impeached and hid himself in Holland. Puritans who had been whipped, pilloried, mutilated, and imprisoned, came up to the capital on their liberation, amidst the plaudits of their friends, and the mortification of their enemies. Deprived pastors were restored to their churches. Unjust judges were held to bail. Ship-money was declared illegal. The Triennial Act was brought in, and passed. The penalties of a *fremunire* were denounced against all parties paying or receiving the duties of tonnage and poundage without the sanction of the House of Commons. The Courts of Star-chamber, the Welsh-Marches, the northern Presidency, the High Commission, and episcopal jurisdictions, received their total abolition. Forests were restrained to their known limits; vexatious procedures with respect to knighthood were extinguished; clergymen were excluded from the Privy Council and commission of the peace; nor could negotiations for admitting popular men into office, nor an army-plot countenanced by the royal sign-manual, rescue the guilty Strafford from his fate, nor the king from his dilemma. A Bill went through both Houses to preserve the parliament from dissolution without its own consent; and was signed by Charles with the same pen which subscribed the attainder of his unfortunate minister. Disgraced at every turn, and compelled to pour the infamy upon his own head with his own hands; he set out for Edinburgh. to carry forward fresh schemes for tampering with the officers or troops whether natives or aliens, for sowing dissensions between the Lords and Commons, and brewing a tempest in Ireland, to be used as a convenient machine for subduing his two other Kingdoms to their duty. But Charles was no Prospero. His plans were all unmasked in rapid succession. Experience was

to render him no services, and wisdom was always to salute him too late. Falkland, Colepepper, and Hyde, held their nocturnal consultations in vain. The foreign queen had by this time consolidated her obnoxious influence over the counsels of her consort. He divided his affections between her and the bishops. She betrayed him; the latter injured him irremediably by their preposterous protest, which ended in the impeachment of the twelve protesting prelates, who ought, as an observer remarked, to have been committed to Bedlam rather than to the Tower. Yet 'bray fools in a mortar, and their folly will not depart from them.' Mankind saw it so then, and they see it now. The celebrated attempt to seize the five members ensued; after which, Charles retired from the metropolis, as a monarch, for ever.

And then came the tug of war. Portsmouth and Hull were secured for the parliament; the first, only for a short period; the last had the honour of being foremost in shutting its gates against the king. The trained bands of Middlesex answered heartily to a summons calling them out for the protection of the city. In Vicar's 'God on the Mount,' it is affirmed that no less than four thousand enlisted within twenty-four hours. On the other side, the queen melted down the plate of her chamber for the expenses of her voyage to the Netherlands, whither she carried by stealth the whole of the crown jewels to be sold or pawned for providing arms, ammunition, and recruits. Her partner accompanied her as far as Dover on her journey to the coast, and at Canterbury assented to two Bills, surrendering his authority over the militia, and depriving bishops of their seats and votes in the House of Lords. Proceeding from Kent into Yorkshire, he was joined by many adherents; chiefly from the upper classes, if judgment may be formed from the calculation of their united rental at 100,000*l.* per annum. The fleet, under Lord Warwick, declared for liberty against prerogative; and it has been said, that an expression of Charles designating the sailors as 'water-rats,' and carefully reported among them, contributed to deprive him of their allegiance. At Nottingham, his standard was finally erected; and after playing fast and loose with the Catholics, his nephew Rupert appears to have drawn the 'earnest' of blood, in defeating Colonel Sandys near Worcester. The more important action of Edgehill occurred on the 23rd of October. Essex, the previous afternoon, had reached the village of Kington in the Vale, while the royalists posted themselves on the ridge above. Charles proceeded to the field with regal pomp, 'clad in complete armour, over which he wore a black velvet mantle, with the star and George; and advancing to the head of the line, he addressed the soldiers in a bold and

animating speech, in which, whilst cordially acknowledging their love and zeal, he told them that he trusted less in their numbers or valour, than in the justice of his cause and his rights, derived from God himself, whose substitute he was.' Both sides claimed the victory. Rupert had the best cavalry, and the Parliamentarians the best artillery. Essex remained master of the field during the night, but all the military consequences of the battle were in the royal favour, with the loss of some hundred men, and several persons of note. Ludlow and Wharton seem evidently to have thought their party defeated. The king marched forward, and took Banbury castle, yielded to him with eight hundred foot and a troop of horse, without a blow. Hampden reinforced his friends with three fresh regiments; yet their adversaries advanced by way of Woodstock to Oxford, and afterwards to Reading, Henley, and Abingdon, whence considerable booty was obtained, and where, according to Whitelock, 'strange violences and insolences were manifested.' One remarkable fact must not be disregarded, since it rests on the authority of Clarendon, and demonstrates beyond the possibility of mistake the direction in which popular opinion ran with regard to the pending contest. Supplies of all sorts were readily furnished by the peasantry to the Parliamentarians; though everything was concealed or carried off from the Cavaliers. Even the blacksmiths hid themselves, that they might not be compelled to shoe horses; 'of which in those stoney ways there was great need.' There were royalists at the fight of Edgehill, who had scarcely eaten bread for forty-eight hours; and after the engagement, many of the stragglers from the royal ranks into the adjacent hamlets, were secretly knocked on the head by the inhabitants. The subsequent affair of Brentford, taught the capital, that its liege lord had not changed his manners, either in the camp or cabinet. Having made overtures for an armistice, hostilities were suspended on the part of Essex; when Charles and Rupert, taking advantage of a fog, rushed upon Hollis, Hampden, and Lord Brooke, who had to support this treacherous attack for some hours before the Lord General could come to their assistance. He had been summoned from a debate in the House, by the report of cannon. With such means as he could collect, he flew to the spot; yet not soon enough to prevent an inhuman slaughter, and the occupation of the town by its assailants. The villainy, whosever it was, involved its own antidote, in uniting all parties against an enemy deaf alike to the remonstrances of reason and the demands of honour.

Nevertheless a treaty was resumed, broken off, and resumed

again. Hopes of succour from abroad, or through the queen's arrival with nine vessels in Bridlington Bay, whence she was escorted to York by the Earl of Newcastle, gleamed upon the wavering fortunes of Charles. He was never sincere in any other point than in believing himself the vicegerent of heaven in these realms, sure of success at last, by methods fair or foul. Having drawn the sword, he had inwardly resolved never to sheath it but in what he termed 'the rebellious spirit of the age.' *Quem Deus vult perdere prius dementat* was not merely his motto, it was his history. The commissioners for treating soon left Oxford, and the campaign of 1643 ensued. Lord Brooke was slain at Litchfield. The Earl of Northampton on the King's side was killed at Hopton Heath. Rupert entered Cirencester, put Lord Stamford's regiment to the sword, and possessed himself of three thousand stand of arms, besides eleven hundred prisoners. These unfortunate captives, described as barefooted, half-naked, tied together with cords, beaten and driven along as if they had been dogs, their conqueror led into Oxford in triumph, where Lilly tells us, 'the king, accompanied by many noblemen, was content to be a spectator of their calamities, but gave neither order for their relief, or commands for care of their sufferings; nay, it was noted by some there present, that he rejoiced in their sad affliction.' He was certainly without bowels, and had on a former occasion with regard to the fanatic Felton, supported the Archbishop of Canterbury in recommending the tender mercies of question by torture. His conduct towards these military prisoners alienated some of his own adherents; and public opinion compelled him to admonish Rupert, after his Birmingham massacre, that 'his Majesty would by no means have him seek to anticipate the Divine vengeance on his subjects.' Several conspiracies were about this period detected in London, Hull, and Bristol. The loss of the last city, which was captured by Rupert, the death of Hampden, and Waller's defeat at Roundwaydown, threw a gloom over the Parliamentary cause, which it required all the talents and integrity of Pym and his fellow-patriots to resist. The gallant defence of Gloucester by Colonel Massey occurred most opportunely to inspire them with fresh courage. An indecisive battle at Newbury terminated operations in the field for the current year; and, with all good men bewailing the mutual losses, the combatants withdrew into winter quarters. A line drawn from Hull to Southampton, as Hallam observes, would suggest no very incorrect idea of the two parties, considered as to their occupation of the kingdom in the month of September. If the parliament by

their tenure of Gloucester, Plymouth, Cheshire, and other midland districts kept their ground on the west of this line, it was nearly compensated by the hold of Lord Newcastle upon Lincolnshire. The Earls of Holland, Bedford, and Clare, had seceded from Westminster to Oxford some months before; but on meeting with a very cold and even ignominious reception, they returned to their former friends, shorn of their reputation with all men, yet fair witnesses to the evil and profligate counsels into which Charles had precipitated himself beyond any hope of remedy.

The queen, on her landing in the north with munitions of war, had been impeached of High Treason by the Commons. They also prepared an ordinance in July for making a new Great Seal, in the room of that which the Lord Keeper Littleton had eloped with from London. To crown all, they subscribed the Solemn League and Covenant, which effectually drew Scotland into their scale, so that 21,000 men crossed the Tweed into England in January 1644. On the other hand, Charles and his cavaliers had turned their eyes to Ireland, where a cessation of arms was concluded with the rebels; and whence ten regiments had been shipped for England, to the great scandal even of such personages as Hyde and Falkland, who pronounced lords Dillon and Taaffe 'men worthy of hanging.' There was in truth no honour among these royal and right honourable thieves, whatever may sometimes be found amongst the knights of the highway. The Irish were to give the king 30,000*l.* besides their troops, for twelvemonth's suspension of hostilities; which hostilities, Charles had pledged his word to another party to wage without let or delay. Neither the money nor the men thus fraudulently obtained, did him any good. Lord Fairfax cut one body of these hated auxiliaries in pieces near Nantwich; the remainder melted away before Gloucester. The coin never seems to have reached Oxford, where pecuniary distress drove the court to put public offices to sale; and the prince himself having descended to the level of a nominal leader, had in effect, by promises impossible to be executed, placed himself at the disposal of his dependants. Hence arose discontent, disorganization, daily defection, and ultimate failure. 'Those,' says Lord Clarendon, 'who were under the royal commanders, grew insensibly into all the disorder, license, and impiety, with which they had reproached the rebels; and they again into great discipline and sobriety; which begat courage in them, and notable dexterity in achievements and enterprizes. Inasmuch as one side seemed to fight for monarchy with the weapons of confusion; and the other to destroy the King and government, with all the

principles and regularity of monarchy.' [*Hist. Rebell.* iv. 299.] Montrose and Antrim, full of a scheme for transporting a body of Irish to the west of Scotland to form the nucleus of a royal party there, were received by the king and queen with unqualified approbation, and made marquesses in the teeth of a protest from several Privy-councillors, not as yet lost to all sense of justice and decorum. Upon the Scotch entering England, a proclamation convened at Oxford such members of parliament as had quitted Westminster to follow the royal fortunes. Even this packed assemblage alarmed its jealous sovereign; so cordial was his detestation of the very name of a parliament. His chief apprehension was, that amidst their privileges of debate, they 'might do many things which would rather hinder than advance his service, and especially that they would enter immediately upon some treaty, which, although ineffectual, would, whilst in suspense, impede his preparations for war; and though,' adds the royal apologist, 'nobody more desired peace, yet he had no mind that a multitude should be consulted upon the conditions of it: imagining that things of the greatest importance, as the giving up persons, and other particulars of honour, would not seem to them of moment enough to continue a war in this kingdom;' a striking evidence of the unyielding spirit of the king, and of his resolution never to terminate the contest on the terms of an equitable compromise. Undoubtedly the parliament could not easily have been brought to comprehend within an amnesty, persons impeached by them, or declared rebels by the king himself before the commencement of the civil war; such as secretary Windebank, who had returned from his exile, and was now re-admitted to the council at Oxford and Antrim, and others deeply implicated in the Irish rebellion and massacre, who now gloried in the favour of the king and queen.

A decline in the king's affairs was becoming pretty visible to all men. The measures of the Christ-church convention, recited in the celebrated declaration of that body, produced a counter-declaration from the patriots at Westminster, whose prospects, though dashed by the decease of Pym on the 8th of the previous December, were daily getting brighter and brighter. In Cornwall, Worcester, Salop, and most of Wales, royalism was, and long continued to be, the prevalent sentiment; but the more important associated countries, from Norfolk to Sussex inclusively, might well have been denominated the parliamentary pale. Their garrisons were also scattered over a very large and increasing portion of the kingdom. The sea coast was almost entirely their own; and their resources consequently, in

the way of taxation, much exceeded those of their antagonists. They had five armies in motion when the campaign actually set in; that of Essex destined to act against the king in person; that of Waller intended for the west; and those of Manchester, Fairfax, and the Scotch covenanters; by the two last of which Lord Newcastle was beleaguered at York, while the third was marching upon the same point. Hopton was totally defeated by Waller near Alresford; Charles, thrown upon the defensive, dared no longer trust himself in Oxford, which city he therefore left for Worcester. By way of Evesham however he returned upon his pursuers, and out-manceuvring both Essex and Waller, partially cut up the latter in the subsequent action at Copredy Bridge on the 9th of July. But the star of the Stuarts had already gone down, six days before this trifling and temporary triumph, in the great battle of Marston Moor; where fifty thousand combatants contended for victory. Rupert, having received peremptory orders to relieve York, skilfully evaded Lesley as well as the English commanders, and achieved his object. Not satisfied with this, he resolved to attack the united English and Scotch armies, superior to himself in numbers, and without waiting for the arrival of considerable reinforcements which in a few days would have rendered his strength equal to theirs. Bearing down upon them in one grand charge, early in the morning of the 3rd July, his cavalry of the left broke through everything that was opposed to it, driving all pell-mell before it. But he missed his laurels, through the rashness and impetuosity engendered by his incipient success. Two of the three parliamentary generals are said to have been driven at one time from the field. In the pride of his heart, Rupert announced by a despatch to his uncle, that everything was gained, just as every thing was lost. Sir Charles Lucas, leader of the left wing of the Cavaliers, was cheering his squadrons to smite the Roundheads hip and thigh, when he found himself compelled suddenly to engage with an officer, who had been no less fortunate than himself in another quarter of the engagement. This was 'Cromwell, first of men.' With intuitive discernment, he had improved the moment of apparent defeat into the means of restoring the fight, and gaining his point. Resolute as the bear, to which his enemies compared him, and as active as resolute, he rekindled the courage of the soldiers, headed and directed their efforts, and brought up a reserve of heavy horse which turned the scale for the parliament; while the prince was exhausting his men, and wasting his valour in the pursuit of an injurious pursuit. Fairfax had nobly supported Cromwell, then only lieutenant-general of Lord Manchester;

yet none could deny, that to the talents and exertions of the latter, were mainly to be attributed the complete and disastrous overthrow of the royalists. Their artillery and stores were taken; three thousand privates, with many persons of distinction, remained prisoners; the cabinet and papers of the Marquess of Newcastle fell into the hands of the victors; and that nobleman immediately quitted the island, attended by his brother, two sons, and about eighty lords and gentlemen. York capitulated under Sir Thomas Glenham its governor, after a siege of less than a fortnight; and almost the whole country north of Trent was finally won to the parliamentary cause.

To the lively pen of Sir Philip Warwick, the authoress is indebted for a description of the future Protector, which sets him thus living before men's eyes. 'The first time that I took notice of him was in the very beginning of the parliament held in November, 1640, when I vainly thought myself a courtly young gentleman: (for we courtiers valued ourselves much upon our good clothes). I came one morning into the House well clad, and perceived a gentleman speaking, whom I knew not, very ordinarily apparelled; for it was a plain cloth suit, which seemed to have been made by an ill country tailor; his linen was plain, and not very clean; and I remember a speck or two of blood upon his little band, which was not much larger than his collar; his hat was without a hatband; his stature was of a good size, his sword stuck close to his side; his countenance was swollen and reddish, his voice sharp and untunable, and his eloquence full of fervour, for the subject-matter would not bear much of reason; it being in behalf of a servant of Mr. Prynne's, who had dispersed libels against the queen for her dancing, and such like innocent and courtly sports; and he aggravated the imprisonment of this man by the council table unto that height, that one would have believed the very government itself had been in great danger by it. I sincerely profess it lessened much my reverence unto that great council, for he was very much hearkened unto. And yet I lived to see this very gentleman, whom out of no ill-will to him I thus describe, by multiplied good successes, and by real but usurped power, having had a better taylor and more converse with good company, in my own eye, when for six weeks together, I was his prisoner in his serjeant's hands, and daily waited at Whitehall, appear of a great and majestic deportment and comely presence. — [Warwick's Memoirs, p. 247.] The authoress thus proceeds:—

'That previously to the commencement of hostilities, Cromwell was regarded by the king with a very peculiar jealousy, we have no

reason to believe. He was not one of the five parliamentary leaders especially marked out as the objects of royal vengeance; and it is probable that the penetrating eye of Hampden may have been the first to detect the genius for command lying hid beneath the rude and unpromising exterior of his kinsman. "Should this contest," he is recorded to have said, "end in a war, yonder sloven will be the first man in England." So competent a judge would probably discern the beginning accomplishment of his own prediction in the suggestion of Cromwell to himself, that in order to be able to cope with the gentlemen of blood and honour, who composed the troopers of the king's army, it would be necessary for themselves to enlist, not base and mean fellows, such as decayed serving-men and tapsters, but men of spirit, likely to go as far as gentlemen would go,—men, who had the fear of God before them, and made some conscience of what they did. Of such persons, substantial freeholders or their sons, natives of his own county, and known to him and to each other, he composed the full regiment of cavalry, which he levied and trained; he subjected them to strict discipline, inspired them with the true spirit and pride of soldiers, and rendered them in a manner invincible. At the head of this corps, which became celebrated by the name of Cromwell's Ironsides, he had achieved in rapid succession a variety of gallant and well-directed enterprises, which had raised his name into celebrity, and opened a fair career to his military genius, by obtaining for him the second command in the army of the easy-tempered and generous earl of Manchester, over whom he obtained a great influence. Cromwell, it should be noted, was the first to disembarass his recruits of the awkward profession under which the parliament's troops had hitherto enlisted, of fighting by the king's authority against his person; and to declare, that should he meet his majesty in battle, he would as soon fire his pistol at him as at any other man.' —Vol. ii. pp. 413-415.

Essex's reverse in Cornwall, where his supplies were cut off, and his army compelled to surrender their baggage and munitions, constituted no counterbalance to the grand northern affair in the relative situation of Charles, since it subjected to his power no district of which he was not before in possession. It infused however just enough spirit into his mind, to ask the parliament whether it felt disposed to accept his terms for a pacification. But difficulties upon which he had been too blind to calculate, were fast closing round him. Sickness and desertion thinned his forces, the country was generally against them, and they became mutinous from want of pay and clothing, as well as from several ill-judged and arbitrary removals of officers. Manchester, Waller, and Essex, the last with his army newly equipped and recruited, came up with the king near Newbury on the 27th of October, and fell upon him in his entrenchments. These having been carried at one point, before darkness termin-

ated a very severe struggle, the royalists drew off to Wallingford, and afterwards to Oxford, where being joined by Rupert and the young lord Northampton with numerous detachments of cavalry, Charles finished the campaign, and exchanged the sword for the pen. Negotiations led to the treaty of Uxbridge, during which in letters to the queen, he assured her that no danger of death or misery should make him forget her love, induce him to quit his support of episcopacy, or deliver up the authority which 'God had given into his hands.' He avows that he preferred a continuance of hostilities carried on by foreign mercenaries and Irish rebels, to the demanded concessions. He occasionally denounced eternal perdition against his adversaries, as the certain and righteous penalty of their disloyalty. Warburton has properly observed, that he never expressed any repentance, or made any confession in his public declarations, that his former system of government had been illegal. It is the lame excuse of a Whig historian, that his repeated promises to govern according to law might be construed into tacit acknowledgments of past errors. His humility towards those whom he had aggrieved, was indeed equal to his sincerity, inasmuch as he manifested not a vestige of either the one virtue or the other; and the abortive discussions at Uxbridge came to an end in setting all parties at a greater distance from peace than before. The executions of Lord Macquire, Sir Alexander Carew, the archbishop of Canterbury, and the two Hothams, inflamed the wounds of an already bleeding commonwealth. Charles dissolved his Oxford convention, 'that mungrel parliament,' as he himself designated it in one of his despatches. The brave but sanguinary Montrose, was now, together with Ireland, the rock of his confidence; and with regard to the latter, he resolved to attempt effecting a permanent and final pacification. Undeterred by the obloquy which his character had incurred amongst all honest men on this score, he enjoins Lord Ormond 'not to let slip the means of settling that kingdom fully under his obedience, nor to lose that assistance which he might hope from his Irish subjects, for such scruples as in a less pressing condition might reasonably be stuck at.' The royal conscience in other words was becoming more Indian-rubber every day. In these perilous and guilty intrigues, connected at the same time with his villainous commissions to the Earl of Glamorgan, he at once discredited and disabled for his service his own official representative in Ireland, and put it in the power of a bigoted Catholic to ruin him forever, as a Protestant prince, in the esteem and affections of the great bulk of his people.

'The obvious' consideration seems to have escaped him, that the *carte blanche* which he offered to the Irish, like the enormous interest tendered by a needy borrower, could not fail to excite such a distrust of the security, as to impede all serious transactions. How far this proved to be the case, we shall see hereafter; in the meanwhile, the thread of events in England must be resumed with the opening of the eventful campaign of 1645.—Vol. ii. p. 447.

That campaign was tardy in its commencement. The farce of the Self-denying Ordinance was in progress, while the fame of Cromwell and Independency was culminating in the political horizon. The king sacked Leicester, when Fairfax had sitten down before Oxford, but whence that peer arose on receipt of the intelligence, and advanced to Northampton. The memorable conflict at Naseby followed, and proved a Marston Moor upon a larger scale, the same faults being committed, the same vicissitudes occurring, and similar prowess being displayed by the parliamentarians and their hero. This engagement was described by one of their quaint divines, as the 'grand assize of the Almighty; his petty sessions having been previously held at Marston.' The numbers of the slain seem not to have been accurately known or ascertained; yet five thousand prisoners fell into the hands of parliament, together with the royal cabinet, an entire train of artillery, the whole ammunition and baggage of the cavaliers, more than a hundred pair of colours, and the rich plunder obtained at Leicester. The documents and private papers of Charles were publicly exposed at Guildhall. They strikingly exhibited his true character, placing it beyond a doubt that the absolute power, which he had ever regarded as his right, was still his aim and end, and that he made no scruple of the means for its attainment.

'They exhibited him as insincere or fraudulent in his overtures for peace, regarding no concession as definitive, no promise as obligatory. They strikingly displayed the dangerous ascendancy of the queen, they laid open his intrigues with the Irish rebels, exposed him as a perjured man in the declaration which he had made on his sacramental faith, that he would grant no toleration for popery; and finally they fixed upon him that most inexpiable of all treasons against country, the summoning of foreign mercenaries to decide by their swords a civil and domestic quarrel. It is probable, that on these letters was primarily founded the resolution afterwards avowed by the Independent party generally, to admit of no treaty which should leave Charles, under whatever restrictions, the occupant of the English throne. The more prudent of his adherents sought to parry this fatal blow by denying the genuineness of the letters published by the parliament; but the king himself, less accessible to shame, or less aware of consequences, at once avowed and justified them in his correspondence with Nicholas.'—Vol. ii. pp. 453-4.

The surrender of Bristol, and a fresh disaster at Rouden Heath, led to the suppression of royalism in the west, and the final defeat of Sir Jacob Astley at Stow-on-the-Wold. That gallant soldier's address to his captors, 'My masters, you have now done your work, and may go play, unless you please to fall out amongst yourselves,' was soon verified to the letter.

There had, in fact, long prevailed amongst the parliamentarians a secret distinction, which, although concealed for an interval from superficial observers, through the common interest which all patriots had in opposing Charles, began to discover itself when success appeared certain and imminent. The Independents, who had at first sheltered themselves under the wings of the Presbyterians, now openly displayed their pretensions as a distinct party; and if principles are to be carried out into practice, it must be acknowledged, that consistency, to say the least, was on their side. What would the British nation have gained by an exchange of Episcopal tyranny for the domination of the Solemn League and Covenant? Would the demolition of the one establishment have done more than furnish materials for the re-edification of another; and that other, without an iota more of reason or justice to recommend it? North of the Tweed, presbytery was the national idol; south of the Tweed, scarcely an individual among the laity was prepared to subject himself or his country to the dictates of an assembly of polemics, stiff and acid as starch and vinegar could make them, armed with inquisitorial powers, wielding at will the sword of excommunication, and holding the civil magistrate as their servant and the executioner of their decrees? The Scotch evidently aimed at enthroning their own sect in three kingdoms, without granting a shadow of toleration beyond their own circle. The Independents rejected all ecclesiastical establishments, and would admit of no spiritual courts, no lordship among pastors, nor any interposition of the magistrate in religious concerns. Each congregation, according to their principles, voluntarily united by sacred ties, composed within itself a separate church; and as the election by the congregation was alone sufficient to bestow the sacerdotal character and office, to which no special benefits were annexed, all essential distinction was denied between the laity and the clergy. No ceremony, no institution, no imposition of hands, were thought requisite to convey a title to holy orders; but the soldier, the merchant, or the mechanic, indulging the fervour of their zeal, resigned themselves to what they considered an inward and superior direction, and were set apart for their functions by a supposed intercourse and

immediate communication with heaven. Nor were the Independents less distinguished from the Presbyterians by their political, than their religious opinions. The last were merely desirous of restraining within narrow limits the prerogatives of the crown, and of reducing the king to the rank of first magistrate; but the Independents, more ardent in their admiration and pursuit of liberty, aimed at the abolition of both the monarchical and aristocratical branches of the constitution*. Vane, Fiennes, St. John, and above all Cromwell, were the pillars of the new party. Warwick, Denbigh, Essex, and that section of the community answering to the lukewarm Whigs of the present day, held up their hands with horror against them, just as now the bolder liberals are regarded and abused by those in power. Thus it was in the seventeenth century. Had the nation actually exchanged one ecclesiastical establishment for the other, it might have washed a little the outside of the cup and platter; but upon the stool of repentance, in the honours of a white sheet and paper cap with devils painted on its crown, would England have sitten for the remainder of her days. There was in effect too much good sense among the masses, to have allowed this; and hence, the Independents, although for a long time in the minority, were ultimately enabled to show their rivals the back-door, while they quietly demolished the throne and made a bonfire of the bishops in front of the parlour windows. That they also afterwards came to the ground themselves, and were whipped out of their own house, was not because they entertained too liberal notions, but because, in adopting deceit and violence as the means for obtaining their object, they had let go their foothold, and were tripped up by the superior wickedness and sagacity of one of their own party.

Dissensions, therefore, had been smouldering all along under the embers, and now broke forth into a flame. Charles, whose whole life would have been a perfect plot had it only been for a comedy instead of a tragedy, set himself to work to play off one sect against the other. He wrote to Digby in the following expressive terms.—‘I am endeavouring to get to London, so that the conditions may be such as a gentleman may own, and that the rebels may acknowledge me king, being not without hope that I shall be able so to draw either the presbyterians or the independents to side with me for extirpating one the other, that I shall be really king again. I will conclude with this assurance, that whatever becomes of me, by the grace of God,

* Walker's Hist. of Independ. Hume, vol. vii. Russell's Mod. Hist. of Europe, vol. iii. pp. 167-8.

I will never forsake the church, my friends, or my crown.'— So here is found this paternal sovereign and royal confessor, after having deluged the kingdom with the blood of a civil war, deliberately planning the 'extirpation' of one class of his subjects by the instrumentality of another, without a symptom of sorrow or remorse, but only so that he might become king again. Squabbles were accordingly got up between the Scotch in arms and the parliament at Westminster. The king piously proposed to treat in person in the heart of his metropolis. All this being seen through and consequently prevented, Montreuil, a French envoy, after having thrown away the best advice he could afford, negotiated on behalf of the mortified monarch with the Scotch covenanters under Lesley, into whose hands at Newark he at last resigned himself. The parliament, in high dudgeon, carried a motion through the lower House, which was negatived in the upper, that the royal person should be demanded for safe keeping in Warwick castle. In the mean time Oxford and other garrisons kept for the king, were directed under a circular from head quarters to capitulate; a mandate which was of course obeyed. Playing what he styled a deep game, Charles gradually sunk, distrusted by all, into the pit which he would have made for others;—yet playing this deep game, as if from a love of political gambling, he called for terms from the two Houses, and they prepared accordingly to submit fresh propositions for his assent. Scotland, in the same interval, also submitted her terms for his consideration; whereby in exchange for the allegiance of that country, he was to submit to the Covenant, and to establish Presbyterianism throughout Great Britain. Hagglng with the chiefs of two kingdoms, he meanwhile was not idle in his repeated attempts to cheat a third. He wrote a letter to Glamorgan, replete with treachery as it regarded the Irish Catholics; but which, when a copy of it was transmitted to Rome, though it afforded the Pope 'great comfort from the reading of it,' the hypocritical writer was ready to disavow should such a step seem necessary to his service. The termination of these twistings and windings, was, that the terms offered by the parliament were refused; the king began to think of making his escape abroad; and perhaps might have done so, had his consort fairly favoured the plan. The state of affairs between the deceivers and the deceived,—between the prince, the queen, the people, officers, puritans, preachers, favourites, bishops, and ambassadors,—became confusion worse confounded. Various and disastrous efforts succeeded each other to bring about a Restoration; which only accelerated the famous arrangement by which the

Scotch, for 400,000*l.* due to them as arrears of pay, transferred their uncomfortable guest to English commissioners, who conveyed him to Holnby, a house of his own, pleasantly situated in Northamptonshire. The sale of episcopal property had helped to make up the first moiety, of 200,000*l.*, which was sent from London in six-and-thirty carts on the 16th of December 1646; and the remainder was not slow in following. Warmer than ever grew the ferment as to the custody of His Majesty. Parties appeared eager to tear each other in pieces, for a prize not worth possession. Their hostage, as hollow as before in all his professions, got less and less harmless every day, from the sympathy he excited among a rural population, and the numerous plots and conspiracies of which he was the centre or the object. In the newly-elected parliament many members were concealed royalists; who, upon a plan of re-establishing prerogative with some constitutional limitations, coalesced with the Presbyterians as the weaker section of the House. This rendered the latter for a longer season predominant. They demanded an immediate disbandment of the army, affirming that the war was over, and the country might be relieved from its burthens. Their real purpose, under these plausible pretences, was to enlist a great proportion of the discharged regiments for the re-conquest of Ireland; Presbyterian leaders were to be appointed commanders; and thus Cromwell and Ireton would be deprived of their most formidable weapons. Too keen and acute, however, to be easily outwitted, the Independents appealed to their soldiers, who replied by loud petitions for their arrears. In vain was their language voted mutinous; since still stronger and sterner was their conduct. Several members hinted at an idle project of sending Cromwell to the Tower; which, drove him, as he afterwards declared, in his own defence to patronise what he had at first resisted,—the self-organization of the army. That army soon seized the king's person as a pledge for the proper behaviour of their nominal master at Westminster; and Charles was conveyed by cornet Joyce to Childersley, near Cambridge, where Fairfax and the principal military men respectfully met him. Transferred from place to place, he rested at length at Hampton Court; in which palace the splendours of royalty are said to have revived around him, as if to tantalize his mind into fresh entanglements. He received offers from the troops more favourable to his peculiar views, on some points, than those of the parliament; yet he haughtily rejected them. All appear to have learned in their intercourse with him, the worthlessness of his most solemn promises. The future Protector and his friends,

resolving to ascertain what were the real intentions of Charles with regard to themselves, should he through their exertions be again invested with authority, found from one of their spies, that this information might probably be expressed in a letter to the queen, on its way to Dover, sewn up in a pack-saddle. The important despatch was arrested and opened. It assured the queen, in reply to her reproaches that 'too great concessions had been made to those villains Cromwell and Ireton,' that she might feel entirely relieved on the subject, since her husband 'would know in due time how to deal with the rogues, and that instead of a ~~shaken~~ garter, they should be fitted with a hempen cord.' He likewise mentioned his dark resolution of closing after all with the Covenanters, through Lords Lauderdale, Loudon, and Lanark, rather than with the Independents. From that moment, the associated generals,—who seem to have previously judged it their best policy to attempt making at least temporary terms with the king, to avoid being overwhelmed by the presbyterians,—wound up their exasperated courage to the pitch of consummating his destruction.

Steps were forthwith taken to place him under closer restraint, and remind him that he was a captive. A new sect was rapidly rising to importance in the ranks of the army; to which its enemies gave the names of 'agitators' and 'levellers,' and attributed to them principles and opinions corresponding to those opprobrious designations. Cromwell, apprehensive that fanatics more furious than himself might snatch the king into their own keeping, instigated his escape from Hampton Court to Carisbrooke Castle. His history during his residence there, as well as at Newport and Hurst, comprises two or three attempts at liberation, several secret dalliances with each party, sundry royalist insurrections and more especially the cruel affair at Colchester, fresh and accumulative evidence of his deceitfulness and guilt respecting the Irish rebels, the suppression of Hamilton and his cavaliers, the memorable purge administered to parliament by Colonel Pride; and the commencement of Oliver's dictatorship. Having now moulded the army to his mind, Cromwell resolved to remove his prisoner to Windsor by easy journeys, but without further delay. This was accomplished two days before Christmas, 1648; all etiquette was entirely laid aside; and the very morning of his arrival the House of Commons appointed a committee of thirty-eight 'to consider of drawing up a charge against the king, and all other delinquents that it may be thought fit to bring to condign punishment.' An ordinance was prepared by this body, and passed through the House on the 1st of January, attainting Charles Stuart of

treason, and for trying him by commissioners. He was declared to have acted contrary to his trust, ~~th~~ departing from his parliament, setting up his standard and making war against them, having thereby been the occasion of much bloodshed and misery to the people whom he was set over for good. He was further accused of having given commissions to Irish rebels; of having acted altogether contrary to the liberties of the subject; and of having done all that in him lay to overthrow the fundamental laws of the kingdom. On the 4th of January, observed as being the anniversary of the attempted seizure of the five members, the House of Commons caused the above-mentioned ordinance to be reported with some amendments; and then, as the lords had rejected it, they resolved themselves into a committee to consider of their own power. They finally passed the resolutions, — ‘That the people, under God, are the original of all just power;—that the Commons’ House being chosen by, and representing the people, have the supreme authority of the nation;—and that whatsoever is enacted and declared law by the commons of England assembled in parliament, hath the force of law, and all the people of this nation are concluded thereby, although the consent and concurrence of the king and house of peers be not had thereunto.’ On the 19th, he was brought to St. James’s, where he lodged that night; and the next day, after a meeting of the commissioners in the Painted Chamber, the trial commenced in Westminster Hall.

Serjeant Bradshawe, an able and accomplished lawyer, after the king had persisted in rejecting the court’s jurisdiction, expounded and defended the nature of the ordinance, as well as the grand principles upon which it was founded. Few could deny his correctness and judgment in maintaining the ground, ‘that if so be that the king *will* go contrary to the end of his government, which is for the enjoyment of justice, he must understand that he is but an officer in trust, and that he ought to discharge that trust; and order is to be taken for the animadversion and punishment of such an offending governor.’ “This is not law of yesterday, sir,” said he, addressing the king, “since the time of the disunion between you and your people; but it is law of old. And we know very well the authorities that do tell us what the law was in that point, upon the election of kings, upon the oath that they took unto their people. And if they did not observe it, there were those things called parliaments; the parliaments were they that were to adjudge (the very words of the authority) the complaints and wrongs done of the king and the queen, or their children; such wrongs especially,

when the people could have no where else any remedy. That hath been the people of England's case; they could not have their remedy any where but in parliament."

Writers of acknowledged talent, and even some professing a warm attachment to the cause of constitutional liberty, have mentioned this remarkable and unprecedented assize with reprobation. It has been denied, that the case of Charles I. was one, which ought thus to have been singled out as a warning to tyrants; it has been affirmed, that his offences were not, in the worst interpretation, of that atrocious character which calls down the vengeance of insulted humanity, regardless of positive law; and that it may well be doubted, whether any even of his ministers could have suffered death for their share in the responsibility of his government, without introducing a principle of barbarous vindictiveness. [Hallam's *Constit. Hist. Engl.* vol. ii. p. 307, 8vo.] In total opposition to all these suggestions, the character and conduct of Charles involved in themselves the very elements of arbitrary power, connected with the never-to-be-forgotten circumstance, that the crown to which he succeeded was invested with but a limited authority. Should it be averred that his own opinion was opposed to this admission, and that therefore if he erred, it was at least a conscientious error; it may be replied, that the events of his long reign would have set right any person of ordinary ability, who had previously formed so erroneous an opinion; that his public professions from first to last compose a vast body of evidence against himself upon this head; and that, even had he never disclaimed intentions of ruling without parliaments or otherwise than agreeably to the fundamental laws of the land, his ignorance as to the nature of the sceptre which he inherited, supposing it to have been real, must nevertheless have been wilful, and so not of the kind to claim the mercy or call for the forgetfulness of mankind. His case appears to have been the precise one to provoke the visitation and awful retribution which overtook him at last. He wore before the world a cloak of the most hateful hypocrisy; glorying in that counterfeit of goodness which is the homage paid by vice to virtue. His admirers have portrayed him as 'the worthiest gentleman, the best master, the best friend, the best husband, the best father, and the best christian in his kingdoms.' Yet he spoke and behaved to women with gross indelicacy, even in public; he scrupled not to sacrifice some of his most devoted adherents; he once caned Sir Henry Vane for coming into a room of the palace reserved for persons of a higher rank; he sent an order to the lieutenant of the tower to behead his prisoner Lord Loudon, on discovering a

letter from the covenanting peers to the king of France; and the profligacy of his children may bear testimony to his actual piety and wisdom, as their boasted parent. His inner man belied his outward one, even in its minutest details, and beyond the possibility of dispute, as to its main outlines. Yet so superficially is the judgment of mankind often formed, that long before his execution, the tide of popular feeling was setting strongly in his favour, principally from the amiable trait in the human character, which fosters commiseration, for the most heinous culprit so soon as he becomes unfortunate. Thousands of exasperated clergymen, it must also be remembered, revered his person as an anointed victim sacrificed on their especial behalf. Multitudes at their bidding, and from their descriptions, saw nothing but devotion in his religion, and dignity in his demeanour, and there was latterly a sufficient semblance of both to deceive them. Those alone who reflected, knew the real state of affairs, nor were they surprised at indignant clamours for vengeance. What aspect, indeed, had his whole system of government sustained, but one continued series of oppressions upon the persons, properties, and liberties of his people? Was there no atrocity, it may well be inquired, in the idea he entertained of extinguishing freedom by foreign mercenaries, and which he would fain have attempted? Was there none in Strafford's lush administration which he countenanced; in the subsequent misdirections which he fostered, in the Star-chamber severities which he patronised, and in the assault and sack of Leicester at which he was present? Was there no regardlessness of insulted humanity in his efforts to lay Felton on the wheel of torture, in his abandonment of Protestantism at La Rochelle, or in his personal mutilations of the Puritans? Passing over for an instant such obliquities as taking open bribes to pervert justice as he did from Wentworth and others, what was his entire career with respect to his domestic as well as foreign policy? Astounding and heart-piercing must have been the conduct that could rouse three nations against him in arms, when millions on his death were ready through the excess of their natural generosity, to forget all his wrongfulness as their sovereign, and idolize the Icon Basiliké.

It is not true that, whoever might have commenced the war, the claims of Charles had a fair hold upon the nation, which it was no plain violation of justice to defend. His standard might have been, and indeed was, followed by the greater part of the peers, by the principal gentry, and a large proportion of other classes; but it is equally clear, that no great section of this

heterogeneous assemblage drew their swords, for arbitrary power and the anti-parliamentary pretensions of the monarch. Relying upon his royal word that Puritans and Presbyterians had misrepresented him, and that henceforward constitutional patriotism was to be the mainspring and soul of his cause, they asked no further questions. There were individual exceptions to this statement beyond a doubt, in some whose pride of ancestry or property led their honour and judgment captive; in others, whose ignorance and dulness no sense nor intelligence could inform; and in many, whose blind selfishness threw them, like eels, into the basket, out of which they were to be drawn to be flayed and fried alive. Nine out of ten among the temporal and spiritual lords acted then, as they would act and are acting now; but the above description is applicable to the generality of the Cavaliers, who often appeared nearly as jealous of their own success, as of the undue ascendancy of the parliament. Barring therefore a few moles and wolves who were interested in seeing autocracy paramount, neither Falkland, nor Clarendon, nor Colepepper, nor any entertaining their views, wished to see the liberties of the land laid prostrate at the foot of the throne. And although according to Hallam, the vanquished in a civil dispute are to be judged by the rules of national, rather than municipal law; yet a previous train of actions, producing that civil conflagration, may fairly be brought home by proper evidence against the worsted party, as a charge aggravated in all its heinousness, by its manifest and dreadful consequences. Charles had transgressed against laws both human and divine; and he suffered after an extraordinary and unprecedented manner. The tribunal which condemned him was not according to law; because law had taken care not to provide for the case. The whole affair was the act of a bold and small minority, themselves the creatures of conquest, as much as would have been the criminal at their bar, had he succeeded in his designs.

Whatever may be thought of the righteousness of the royal trial and execution, the latter was supported upon no good grounds of policy. Looking to its tendency at the time, every wise man should have lifted up his voice against it. So long as nations continue uneducated, they will always be liable to sudden impulses; and the ghost of Strafford himself could have suggested no more effectual mode of ensuring a revulsion of sentiment in the public mind, than the solemn decapitation of his master. At his execution,

‘His speech was an attempted vindication of his political conduct, in which he called to witness that God, before whom

he must shortly appear, that he "did never intend to encroach upon the privileges of the two houses of parliament, but that they began upon him, by laying claim to the militia. He also said, that an unjust sentence which he had suffered to take effect, was now punished by an unjust sentence upon himself. He asserted that he was as much a friend to the liberty and freedom of the people as any one, but that these consisted in *having government* and those laws by which their lives and goods might be most their own. *To have a share in the government was nothing "pertaining to them, a subject and a sovereign being clean different things."* At the suggestion of the bishop, he made a declaration of his adherence to the Church of England, as it had been left to him by his father; and thus concluded: "I have a good cause, I have a gracious God, and I will say no more." He then laid down his head upon the block, and after a few moments spent in prayer, he gave the signal by stretching forth his hands, and it was severed at a single blow. At that awful moment, all other sentiments were lost in grief and horror, and "a dismal universal groan" burst forth from the congregated thousands.—Vol. ii. pp. 597-9.

On his head being separated from its trunk by one of the executioners, the other holding it up, exclaimed aloud, 'This is the head of a traitor.' Impartial history can scarcely fail to set its seal to the truth of this assertion, nor to notice that, as the whole life of Charles had been stained with false professions, so he died with a falsehood upon his lips, in his repeated and sacramental asseverations relative to liberty and parliament. Those asseverations however, followed up by Gauden's forgery, produced marvellous effects. Grief, terror, and indignation seized, as has been seen, the hearts of the astonished spectators. Nothing was heard but execrations against the assassins of their sovereign; it was imagined and maintained, that no sufferings, no magnanimity, no piety, no patience, had ever been equal to his, in any mere human instance; while some were even found to compare, or at least assimilate his 'martyrdom,' as they termed it, to the propitiation of the Son of God. What is the language of the Established Church at this moment in its 'Form of prayer with fasting, to be used yearly upon the 30th of January, being the day of the martyrdom of the blessed king Charles the first;—'to implore the mercy of God, that neither the guilt of that sacred and innocent blood, nor those other sins; by which God was provoked to deliver up both us and our king into the hands of cruel and unreasonable men, may at any time hereafter be visited upon us, or our posterity.' In this blasphemous office, the prophecies and expressions of the Psalms, applied by Christ and his apostles to himself alone, are adapted to the

circumstances of Charles. A profane parallel indeed runs throughout the whole, and more particularly in the passage selected for the gospel; and if protestants must reproach papists with abandoning no single particle of what popes and councils have once enacted, the charge may with fairness be retorted upon our hierarchy for allowing near a couple of centuries to pass away, without such signal stains as this service, as well as that for the 29th of May, being expunged from the Common-prayer book. For a national church to confound, in the scales of its sanctuary, the merits of the Redeemer with the infamy of a ten times convicted traitor and his profligate successor, can only be matched by the daring appeal of that criminal himself to an awful judge, whom he could not hope to deceive.

It is impossible to turn away from these times, without comparing them with our own. Parties as they just now exist, in their broader outlines and minor subdivisions present prodigious likenesses to the royalists, presbyterians, independents, and agitators, who lived, and strove, and passed away, under the observation of Rushworth and Whitelocke. Neither are our religious differences very dissimilar, allowing for the flood of light bursting in upon the darkest corners of the earth. There is no lack of prelates as like to Laud and his protestant cardinals, as the spirit of a considerably enlightened age will permit them to be. Their views are not less violent; their addresses in their charges from their pulpits, or platforms, or among their peers, more moderate; or their conduct much more discreet. Their opulence and privileges, their parade and their pluralities, are not less odious now than they were then. The notions of the executed king on government, have scarcely a verbal difference from those of some of the ministers it has pleased the present majesty of England to select. The contest is of their own seeking, and brought on in spite of all that moderate men could do to keep back the revolution of the wheel. *Solomon has said,*—but the great never look to Solomon for the thing that shall be, except to copy his fooleries and make room for his repentance.

ART.. III.—*The History of Rome. Parts I. to IV.* Published under the Superintendence of the Society for the Diffusion of Useful Knowledge.—Baldwin and Cradock. 1833.

HISTORY is anticipated experience;—and (to use the words of Lord Bolingbroke) he who studies it as he would philosophy, will distinguish and collect certain general principles and

rules of life and conduct, which must always be true because they are conformable to the general nature of things; and by so doing he will soon form to himself a general system of ethics and politics on the surest foundations, on the trials of these principles and rules in all ages, and on the confirmation of them by universal experience. Moreover, in an age like the present, when the science of government appears likely to keep pace with all other sciences, History acquires new claims upon attention. In a country groaning under the despotism of a tyrant or an oligarchy, the records of other times can be of but little service except to cherish those seeds of freedom which opportunity may afterwards develope. But when, as in the present day, the antiquated maxims of supereminence on the one hand and submission on the other have been rejected with contempt, and when the happiness of the community is beginning to be acknowledged as the true principle of legislation, and the wants and wishes of the people carry with them an increased and increasing importance;—in such circumstances History is the grand dépôt from which to draw forth the stores of intellectual warfare,—the armoury which must furnish for the battle those who are to contend in the cause of freedom against ‘principalities and powers.’

It would seem as if in anticipation of future danger even during their long reign of licensed impunity, the Tories had guarded with peculiar care this point in their entrenchments; while the popular party on the other hand, engaged in the struggles of actual contention, have been unable to devote to the subject the attention which it deserves. The consequence has been, that the system of education adopted almost universally in this country has strongly felt the effects of the dangerous inequality. Deriving their knowledge of other countries and their own from distorted sources, the youth of England imbibe from their earliest years the political principles and prejudices of the public enemy. Meeting with none but Tory writers at a period of life when both statements and opinions are admitted readily upon authority, they have fallen into the tone of feeling so strongly recommended to them, and have concluded that to favour the popular party was to support sedition, and that a liberal was synonymous with a traitor.

Hence in a great measure has arisen that strong tendency against the rights of the people which the educated youth of this country have so often betrayed. Accustomed to look upon such claims as the fruitful source of turbulence and discord in other nations, they have naturally been disposed to reject them in their own; and having been taught that the domestic calamities of the States of antiquity, arose from the excesses of popular

license, they have entered upon life with a fixed determination to oppose that which has been represented to them as the origin of the misfortunes of others. Thus it is, that generation after generation has been sent forth from schools and colleges tainted with all the prejudices of exclusive bigotry, while comparatively few have been able to discard the influence of education, and inquire for themselves whether these things were so. Every man indeed must feel how difficult it is to erase early impressions and to form for himself in later life a new code of reasoning; and this will account in a great measure for the fact, that the strongest supporters of antiquated systems and exclusive doctrines are to be found among those who have never been transplanted from the scene of their youthful education, but have lingered on amid the halls of Oxford or of Cambridge, without meeting anything which could lead them to doubt the accuracy of their first impressions. Such men see life through a coloured medium; and the optical delusion which originally misled them, is only more deceptive from its duration, and continues to throw a false glare over every object within their view.

Roman History has long been the stronghold of the Tories. Aware of its having been in general written by the Tories of an antecedent state, they have continually referred to its annals as affording the fullest confirmation of their political dogmas. Unwilling or perhaps unable to trace to their real source the discords which agitated Rome, they have invariably asserted them to have arisen from the sedition of the plebeians. Nor have such representations been without their weight; even those to whom the name of the people has never been odious, have been bullied into the admission of their statements, and have confessed with sorrow, that the details of Roman story might be adduced with triumph by their adversaries. At length, however, the world has gained somewhat more of confidence and of knowledge.

The object, therefore, in examining some of the details of Roman History will be to prove, that the calamities of the Roman State proceeded not so much from the irruptions of popular license, as from the never satiated cravings of oligarchical ambition;—that the tumults and dissensions which continually prevailed, had their origin in the aggression of the Patricians, who, as in later times, inflicted the injury, and then railed against the indignation which the injury evoked. It will be found too upon proceeding, that the people far from retaliating with the violence which might naturally have been expected, exercised almost invariably a remarkable forbearance, a forbear-

ance strongly contrasted with the extreme severity by which the triumphs of the 'Conservatives' were distinguished. It may be shown that Rome never actually deserved the name of a Republic, but that just so long as she approximated to it, did she continue to flourish; that her decline was proportioned to her departure from republican principles, and finally, that her prosperity perished with her freedom. The corruptions of the political like those of the material body, may be traced back through a long series of ailments, to injuries which at the moment were scarcely perceptible, but which, gaining strength from age, infect at length the whole system, until, to use the words of the historian, it can bear neither its evils nor their remedies.

Success in this task would read a lesson to those who have been fond of attributing the decay and downfall of that empire to the efforts of 'the movement,' and who prophesy a similar destruction from similar causes to the greatness of England.—*Dí nobis meliora, erroremque hostibus illum.*

The peculiar character of Romulus stamped with its own impress the institutions of his State. Daring and resolute as he was, he possessed too much prudence to aim at establishing unlimited authority among those whose habits of life had unfitted them for passive submission. Preferring to secure a part, where the whole could not with safety have been attempted, he laboured to unite Liberty with Empire, and established a kind of mixed monarchy, the sovereign power being divided between the head or prince of the nation, a senate that was to be his council, and the assembly of the people. In this arrangement, there is seen at the first glance somewhat of a resemblance to the government under which we live, differing from it, however, in the non-introduction of the principle of representation into the third order. Three branches of legislature are discovered, each distinctly defined; and each, as will be seen, possessing separate duties and privileges. Nor is this similarity unworthy of remark; for the contests which arose between the several orders of the state, resemble both in their causes and their effects, those clashing of interest and of principle, which have ere now divided, and which will (if remedies be not applied) divide still further the component parts of the British Constitution.

In some less important circumstances, the similarity is curious. The time had not yet arrived when it was discovered that men might differ in religious creed, without injury to their worth as citizens; and accordingly Romulus established himself as the head of the religion of the state, and assumed the office of Fidei Defensor. He had indeed one advantage, which

claimants of that title have not always possessed. His people, who had little religion of any kind at all, were perfectly willing to allow him to mould it at his pleasure.

Romulus had probably sagacity enough to perceive how powerful was the political engine which the command of the state superstitions entrusted to the prince; and the disciples of Loyola only matured a system, which even if, as Vertot says, 'it owed its establishment to nothing but the ignorance of those first ages, afterwards became one of the mysteries of state. For this reason, he had himself elected first Augur of Rome, and decreed by a law made expressly for that end*, that no election should be entered upon, nor any person for the future raised to the royal dignity, to the priesthood, or to any of the public magistracies, nor any war undertaken, till the auspices had been first consulted.' The immense power which this regulation finally placed in the hands of the patricians will be seen hereafter. With these real powers, Romulus had much of the pomp of royalty, and guarded his dignity, as well perhaps as his person, by lictors and their fasces.

Thus the king commanded the armies, directed the sacrifices, determined civil and criminal causes, called together the Senate, convened the people, laid a portion of affairs before the latter, and regulated the rest with the Senate. The crown was elective, the choice of the people being ratified by the authority of the Senate†.

The Senate consisted originally of 100 members. The first senator was chosen by the king, and was in his absence to have the government of the city; each of the three tribes elected three, and each of the thirty *curiæ* or sub-divisions of the tribes three more, completing the number of 100,—'who,' says Vertot, 'were to be at the same time the king's ministers, and the protectors of the people;' 'functions,' he adds, 'no less noble, than hard to execute well.' In this institution as it originally stood, will be perceived a striking dissimilarity to our English peers. The Senate were chosen by the suffrages of the people, not by the will of the Sovereign; and thus the middle rank between the Crown and the Commons were from the mode of their election, preserved from a spirit of repugnance to popular rights. When afterwards this wholesome regulation was neglected, and the kings, consuls, or censors, usurped new authority and supplied at will the vacancies in the Senate, that body assumed a new tone, and changed gradually from their character of

'friends of the people' into the advocates of tyranny or the defenders of oligarchical despotism. It may, however, well be doubted whether such a system, dangerous as it was, carried with it so much of peril to the people, as that which has established in a series of hereditary legislators, a corporation attached above all things to the privileges of 'their order,' and inclined from the very constitution of their body to look with jealousy and distrust upon the growing intelligence and power of the rest of the community.

The authority of the Senate was great;—some of their body were frequently chosen by the kings to act with them as judges;—and no affair of importance was laid before the people until it had previously been debated in the Senate*. To their descendants moreover belonged exclusively, all civil and military dignities, and those of the priesthood itself.

The *equites* or knights, though themselves plebeians, formed a middle order between the patricians and the people, and broke the continuity of a chasm which must otherwise have appeared too wide.

The third order of the state consisted of the plebeians, who confirmed the laws which had been digested by the king and senate, and themselves in their assemblies gave the orders, which they themselves executed. They decided on peace and war, and appointed to all magistracies, even the crown itself, the Senate only retaining the power of rejecting or approving their schemes. Such, says the historian, was the fundamental constitution of Rome, neither purely monarchical nor entirely republican; the King, the Senate, and the People, were in a sort of mutual dependence, from whence resulted a balance of authority, which moderated that of the prince, and at the same time secured the power of the Senate and the liberty of the people. How far the condition of Rome when in the hands of an oligarchy was inferior to this, will be hereafter seen.

The union between the Patricians and Plebeians did not rest here; the tie of patron and client served to bind them together, and the obligations which it enjoined were long esteemed sacred. Indeed, while the duties of the patron continued to be attended to, the poorer classes were too intimately connected with their superiors to feel, or at least to lament their dependence; and even long after the Patricians had oppressed them with the grossest tyranny, they hesitated to break with individuals with whom these connexions had closely associated them. Gradually these sentiments declined. The honest and well

* Dion Halic.—L. iv.

principled client, finding himself neglected for the fawning parasite or foreign buffoon, forbore to pay attentions which he found unvalued, and his affection and respect for his patron ceased together; the unprincipled one continued his services, and pandered to the reigning passions of his master. But this state of things did not speedily arrive. It requires much in any country to destroy those feelings of respect for superiors in rank and station, which are implanted in the poorer classes; and had the Tories, either of Rome or England, nourished these feelings with the attention which their own interests demanded, the people of both countries would have delayed much longer, before they exerted their slumbering energies.

The regulations of Romulus secured for a considerable time domestic concord. The various additions indeed to the number of the Senate under Romulus and Tatius and under Tullus Hostilius, served to give it somewhat more of patrician leaven; but the change was not sufficient to be immediately felt. One remarkable incident occurred in the reign of the last mentioned sovereign, when Horatius being condemned to death by the *Duumviri*, by the advice of Tullus appealed to the people,—‘proving that the authority of that assembly was superior to the prince.’

In the next reign it is found, that the solemn formula of the herald when declaring war, runs in the name of the Roman people, and that no mention of the king is introduced into its clauses.

Up to this time, the constitution had remained nearly as established by Romulus; but Tarquinius Priscus having by his liberality purchased the crown in preference to the sons of the deceased prince, took a new step to support his authority, and introduced into the Senate a hundred of his own creatures, who, says the aristocratic historian Livy, were to be looked upon undoubtedly as the faction of the king, by whose favour they had come into the Senate*.

It has always been held a dangerous experiment that the sovereign should introduce into a deliberative assembly a body composed of the creatures of his will; yet how quietly would an initial proceeding of this nature, to support monarchical authority, be overlooked by those, who have in our own times railed most loudly against the proposal which would ‘swamp’ as they term it the House of Peers, by introducing a counterpoise against a previous operation of the same kind, as the readiest

* *Factio haud dubia regis, cujus beneficio in curiam venerant.*—Livy. *Lib. 1.*

means of preventing the occurrence of forcible resistance to the first.

With the exception just mentioned, no important change had been as yet made in the political regulations of Rome; and during this period, her constitution was far more republican than at any subsequent period of her annals. It is true, that a king was at her head, but the name matters little; and a king may in reality be less despotic than a consul. Until the reign of Servius Tullius, the people were in possession of the highest power. By the establishment of universal suffrage (all votes being of equal value), they held in their hands the supreme authority; and they may fearlessly challenge their adversaries to show where that authority was misused. Nothing is heard at this time of those fierce contests between the different classes of the state, which were presented afterwards.

The people, satisfied with the possession of power, cared not to exert it, except when the welfare of the state required, and readily concurred in the wishes of those whose superiority in rank and wealth gave strength to their recommendations.

Under Servius, a new æra commenced. This prince formed the design of transferring the chief authority into the hands of the nobility and patricians; but fearing the resentment of the people if he openly avowed his object, he artfully held out to them a bait of considerable allurements to divert their attention from his real object.

Under the specious pretext of diverting the burthen of taxation from the poorer to the richer classes, he introduced the principle of the *census*, whereby the wealth or rank of each individual was for the future to be the measure of his political privileges. He then proceeded to substitute for the ancient *Comitia*, where the voice of the majority was decisive, a new mode of collecting the votes, which threw the authority into the hands of the Patricians. He divided the whole body into six classes, composing each class of different *centuries*. The first class or that of the patricians contained the enormous number of 80 centuries, to which may be added 12 centuries of knights and 6 more of the same kind under different names; the 2nd, 3rd, and 4th classes, 20 each; the 5th, 30; and the 6th class, one. He next ordained that votes should be taken not by *curiæ*, where, the voices being reckoned by number, the meanest plebeian had as much weight as the greatest senator; but by *centuries*, whereby the patricians were sure of carrying their point, comprising as they did in their class alone the majority of centuries. The rich in this manner had the advantage, directly as the number of centuries

and inversely as the number of individuals in their class ; a thing incredible, if it were not gravely told. The 98 centuries of the first class were to be consulted first ; if any difference of opinion arose among them, which could scarcely be the case where all had the same interest*, the second class was to be called on, and so on to the lowest. It is an astonishing feature in human history, that a whole people should allow themselves to be deceived by so shallow a fraud,—and should not find out, that the rich man receives the exact superiority in political influence which he has a right to, through the channel of the influence he exerts over the poor by the possession of his wealth.

The plan of Servius unfortunately succeeded. Deceived by the proposed relief from taxation, the people seem to have considered their secession from political power as its necessary accompaniment, and surrendered almost without perceiving it, the only means which could enable them to resist the growing power of the Patricians. The greatest pains, indeed, appear to have been taken to conceal from them the real consequences of the step into which they had been betrayed. They were still allowed to retain the right of voting, with this slight alteration that their opinions would never be required. Livy explains most accurately the measures of Servius, when he says, ‘ that no one seemed excluded from the right of voting, but all the power was in the hands of the Patricians†.’ Thus it is, that tyranny steals in under the pretext of kindness, and assumes the mask of liberality to hide its nakedness. *Timeo Danaos et dona ferentes* appears to be the only motto which a people can safely assume ; for the spirit of despotism is as cunning as it is treacherous. The Romans seem to have been completely deceived, and to have overlooked their chains until they were riveted for ever. From this time the freedom of their state virtually perished, for whatever may be the name of a government, it changes not its nature, and the whole authority was henceforward transferred into the hands of an oligarchy. We read indeed of a republic and of republican officers, but the people had been cheated of their power, and dreadful were fated to be the consequences which marked the progress of patrician dominion.

It has been necessary to dwell at some length on the change introduced by Servius, in order that the reader might understand the true position of the people during the future period of their history. They have been seen enjoying,

* Ibi si variaret, quod raro incidebat.—Liv. *Lib.* 1.

† Ut neque exclusus quisquam suffragio videretur, et vis omnis penes primores civitatis esset.—Liv. *Lib.* 1.

amid that equality in which all were united, the power which a majority naturally conferred. Under these circumstances, they go forth 'conquering and to conquer.' United together at home, they find themselves victorious over their enemies abroad. They chuse in common their form of government and their ruler, and pay to him that obedience which a voluntary selection secured. Almost immediately on the formation of the new Patrician constituency, a change ensues. Confiding in the separation now made between the Patricians and the Commons, and which had destroyed the power of the latter while the former were as yet scarce conscious of their increased influence, Tarquin assassinates his father-in-law, and seizes on the throne without consulting either the Senate or the People.

Thus twenty-three years after the institution of the *census* and the *comitia centuriata* which, as has been seen, deprived the people of their political rights, the State is found so reduced from its former strength as to submit without an effort to the unsupported usurpation of a tyrant and a murderer. How evident is the inference, that the assault on the rights of the Commons had ruined the liberties of all. Tarquin having thus gained the sovereignty, secures it by military power. The Senate are immediately attacked; several of the chief among them are made away with; only because they dared to bewail the misery of their country; and thus they for whose advantage the privileges of the Plebeians had been crushed, fall the first victims to the cruelty of the oppressor.

These were the beginnings of the State, whose crimes and miseries afterwards made so large a figure in the history of the world. Opportunity will be taken at a future period, to examine some of its succeeding revolutions, beginning with that in which, to use the emphatic words of Montesquieu, 'the people at a critical moment recollected that they were legislators, and there was an end of Tarquin.'

ART. IV.—*The Book of the Reformed Parliament, being a Synopsis of the Votes of the Members of the Reformed House of Commons, upon all important Questions, from their First Sitting of February 1833, to the end of the Second Session August 1834; with Lists prefixed of the Movers Names, the nature of each Question, and the gross Divisions thereon.* By Richard Gooch, Esq (To be continued at the close of each Session).—London: A. H. Bailey and Co. 83, Cornhill 1834.

THIS is a manual for Electors,—of especial use at the present crisis. There is a threefold object in noticing it now;—

the first is to notify it to all concerned,—the second, to help the Electors to make use of it in the most efficient manner;—and the third, to suggest to the Author a mode of improving his work, which may hereafter greatly enhance its practical usefulness.

On the first point, this is to be said,—that notwithstanding its defects, it is the best, because the only work of the kind in existence. It must have been got up with great labour, and at great cost. There is no other work which can serve the Elector's purpose of learning at a short view how his Representative has voted, and how far his past conduct justifies future confidence. It is therefore heartily recommended as of indispensable service to all Electors.

But there may be made more efficient use of this work, if it be subjected to analysis, and if all measures of the same kind be put together, so that from the juxtaposition an inference may be drawn to the general character of the Member's conduct on different classes of subjects.

Take for instance the Divisions of the last Session. Classify all the Divisions that relate to Church Reform;—then all that relate to Ireland, to Expenditure, and Taxation;—to the Poor and the care of the Poor;—to Parliamentary Reform of all kinds;—to Impressment and Flogging;—to the Press;—to Free Trade;—to the proposed Amendments of the Law.

The same subjects might be divided in a similar manner for the preceding Session. To which must be added other Divisions on subjects peculiar to it; as the General Distress, or the Currency Question, the Unions, East-India and Bank Charter, and Municipal Reform.

In a few hours, the questions may be written out; with the manner of voting—or absence—of any particular Member. Let a statement of the position of the question at the time of voting be drawn out, as well as of the bearing of the different questions of such class. In most cases, the very ranging of the questions together with the manner of voting, will supply a fair enough evidence of the trustworthiness of the representative.

To the author, it is to be strongly recommended to act upon a similar plan in future editions of his work. In the present edition he is confined to fifty-eight questions, in order to get the entire ranged within the space of two pages. Now there is great difficulty in such a selection; to the representative in some instances, and to the elector in others, the exclusion of Divisions of any class, may work injustice. To do justice, it is necessary that the whole of the Divisions of any class shall be shown. The Member must be judged by his whole conduct,

If not, he may plead the unfairness of the work, in making the selection, as a ground of disbelief, on the Elector's part, in the authenticity and accuracy of the whole. The questions do not, however, appear to be unfairly selected. If the whole scheme of policy on any one subject in a Session was made apparent, by contrasting the votes of the Member with others of his own party, with his pledges, his general conduct, and with that of the Tories and other parties,—a very safe conclusion of the nature of his conduct might be formed. And the public would have a guide-book to the bearing of questions upon one another, with some chance of viewing the whole consistently and clearly. According to an arrangement of this sort, the author might give an entire page to each class of votes. If there was an objection on account of the repetition of the name in every instance occupying too much space, that might be removed by attaching a number to each name, and placing the number instead of the name before the Member's votes. If the Divisions were not numerous enough to occupy an entire page, two kindred classes, or three, might be brought within it; great care being at all times bestowed on making the classification appropriate and self-elucidating.

What has been said to the author, is also said emphatically to Electors. Let something of this kind be done for each place. The occasion is worth every effort, and this valuable book furnishes the material. Above all things, take not into your bosom a Tory with a Whig or Radical clothing, nor a pretended Radical who is looking out in all directions for some petty point to gain by selling himself to the Tories. Let it be shown once for all, that Toryism cannot thrive again in the land; for the future warning of whatever Whigs or Radicals may again form the Government.

ART. V.—*Description of the Enharmonia Organ constructed by J. Robson and Son, 101, St. Martin's Lane, London. With directions for playing, &c. 1834.*—At J. Robson and Son's, as above.

AN Organ on a considerable scale, has been constructed upon the principles at various times put forward in this Review under the title of 'Enharmonic.' As the whole is no more than an expansion of preceding materials, such persons as may have followed the subject to any extent in former numbers may not be displeased with receiving the history of the Continuation, in the terms issued at the constructor's.

'This attempt at obtaining Correct Harmony, is based on the observation or discovery, of the *duplicity* of the *Dissonances*; by which

is meant that the Dissonances (the Major and Minor Seventh and Major and Minor Second, so called in contradistinction to the Thirds, Fourth, Fifth, and Sixths, which are the *Consonances*;) are *double*, or have each two *forms*, differing by the small difference called a Comma, and which make just concords with the Consonances *alternately*,—that is to say, the *Acute* form makes just concords (whenever the interval is not less than the least of the intervals that make a concord at all) with the Thirds and the Fifth (*odd* numbers), and the *Grave* with the Fourth and the Sixths (*even* numbers). The exactitude of this is easily ascertained by any person familiar with the calculation of musical ratios.

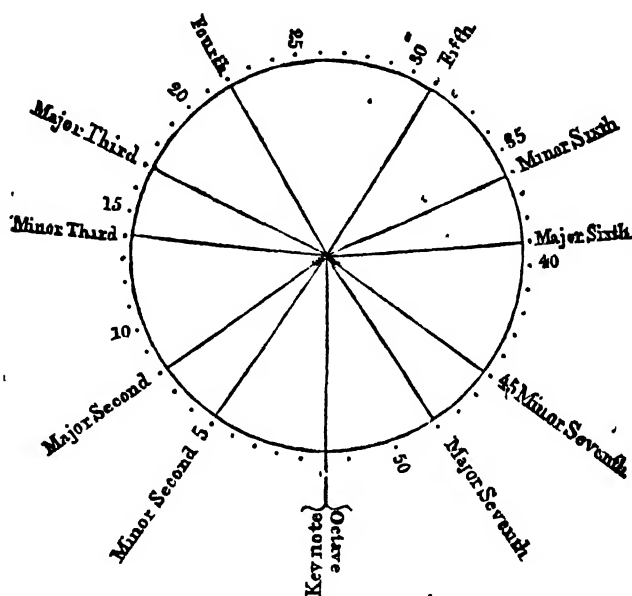
Instead therefore of trying to get rid of the difficulty by mincing up this perplexing Comma among the various notes to the destruction of the purity of all, as in one way or other is the object of everything that has passed under the name of Temperament,—the more reasonable process would appear to be, to endeavour to execute the proper form of the Dissonance in the proper places, as may be suspected to be already done by performers on unfettered instruments such as the voice and viol kind.

It has been noticed by musicians, that singers in singing the *descending* scale, make the Second *grave* (that is to say, graver by a Comma than they make it in some other circumstances). Now what can be the cause of this, except the desire to make a just concord (Minor Third) with the last sound capable of a concord that has preceded, viz. the Fourth? And *à fortiori* if the singer was executing the Second in a duett where another performer was at the same time executing the Fourth, would he not execute the *grave* Second which makes a just concord, and not the *acute* Second which does not? And may it not in like manner be concluded, that if the Second had to be executed in conjunction with, or sequence to, the *Fifth*, it would be made the acute Second and not the grave? By applying the same theory to the other Dissonances, a general rule appears to arise for the determination of the form of a Dissonance.

If it is demanded why the Dissonances should be moveable and not the Consonances,—it is because the last are the closest and most important relations of harmony, and the others the more remote.

But a question which will present itself in this place, is, what is to be done with chords which present a Dissonance in company with two Consonances with both of which it is impossible for it to agree;—as for instance with the Third and Fourth, the Fourth and Fifth, or the Fifth and Sixth. Are such occurrences to be considered as what a herald would call *canting* harmony; or are they admissible by altering one of the Consonances by the magnitude of a Comma, as there can be little doubt is what would actually take place if performed on unfettered instruments like the voice and violin? To urge that the difficulty may be got over by the use of a tempered system, is like urging that a profile may be made to resemble two individuals at once, by drawing a line intermediate to the just profiles of both;—whatever is gained in the direction professed, being at the expense of what makes the portrait valuable at all. Further observations on this part of the subject will be found under the head of 'Translated Keys.'

The division of the octave thus arrived at, when represented by the division of a Circle, will be as below; in which the curious observer will discover a number of conformities and analogies, which it is difficult to suppose nature intended to be destroyed by a process approaching to that of mincing up the whole into twelve equal intervals. The dotted lines represent the Dissonances, in what are collected from experience to be their less usual forms.



The figures which appear on the outer circumference of the circle, making a division into 53 equal parts, represent what may be called

THE NORMAL SCALE.

A contrivance which gives extraordinary facility to the calculation of musical intervals, and is intimately connected with the ready understanding of the construction of the Enharmonic Organ.

It has long been familiar to theoretical musicians, that when the octave is divided into fifty-three equal intervals (as is easily done with the aid of logarithms), each of the sounds which constitute Correct Harmony as derived from the simplicity of ratios, approximates in a remarkable manner to some or other of the sounds in this Scale of 53. The circumference of the circle is consequently divided into 53 equal parts; where, as may be seen upon inspection, each of the divisions of Correct Harmony coincides, within a distance inappreciable by the eye though capable of being made the object of arithmetical measurement, with some one or other of the divisions into 53. If then the numbers thus attached to the

several divisions of Correct Harmony be committed to memory and called their *indices*, it is plain that by the addition or subtraction of the numbers in what may be called the *Normal scale*, thus constituted, a *close approximation* may at all events be made to the magnitude of the interval between any divisions fixed on. For example, if it was required to know what is the interval between the Major Third and Major Sixth;—by subtracting the indices one from the other, 17 from 39 leaves 22, which (as being the index of the Fourth) is evidence that the interval is at all events *something very near* to a Fourth. Or if, instead of this it had been wanted to know what sound was arrived at on taking a just Fourth above the Major Third;—by adding 22 to 17, the sum 39 would indicate that the sound arrived at was at all events *something very near* to the Major Sixth. And the same in any other cases; for convenience casting out 53 when it occurs, or which is the same thing, beginning again at 0. But the fact which is of importance to the musical inquirer, is, that all the indications derived from this employment of the indices, are not only approximately but accurately, true of the Correct division; and this not only in a single key, but, to an extent which it is difficult to exhaust, in the complications which arise from beginning the calculation of the harmonical divisions from one of the previous divisions as a new starting-point, which is what constitutes a Change of Key. The way in which this fact presented itself, was in the course of proceeding to divide the neck of a guitar into 53 equal intervals in the octave, with a view to prove the effect of the approximation to Correct Harmony in a diversity of keys, thus arrived at. After making some progress in the experiment, it occurred to the experimenter to try what would be the results of inscribing the Correct divisions instead of the approximative in the original or primary key, and thence calculating the places of the frets for various changes of key, according to the Correct proportions instead of the approximative; and to his surprise and satisfaction, he found it was as easy to have the Correct divisions as the others, the Correct divisions falling over and over upon the same places without deviation, with a pertinacity which presented a most extraordinary display of the properties of numbers. On carrying the examination a certain length, some of the numbers began to *split*, or present the phenomenon of two numbers differing by some of the minute intervals to which Greek names have been given by musical mathematicians; but even here a law was discernible, which made it easy in any given case to determine which of the two numbers was demanded. For the present purpose however, it will be enough to state, that none of the calculations in the Enharmonic Organ come within the range of this phenomenon.

Examples of the mode of employing the Normal scale will be given in the progress of the

DESCRIPTION OF THE INSTRUMENT.

To begin with the lower finger-board, which presents the key of C. The C, which is the Key-note, is distinguished by being *red*. The Dissonances (D♭ and D, B♭ and B,) have each two finger-keys; and because it appears from experience that one of the forms is of more frequent

occurrence than the other (being the form most remote from the centre of the octave, or nearest to the neighbouring Key-note), advantage is taken of it to give to this form the same place as in ordinary instruments. The Acute forms of the Dissonances are all coloured *white*, and the Grave *black*; the Thirds and Fifth of the key being at the same time made white, and the Fourth and Sixths black. Hence, as a general direction, the Dissonance only requires to be taken of the same colour as the note with which it is required it should make a just concord.

Between the Fourth and Fifth (or in the place usually occupied by F \sharp) is placed a note which makes what is called the *Tritone* to the Key-note; being a Major Third above the Acute Major Second, and a Fourth below the Acute Major Seventh. Its index in the Normal scale would be 26; and it presents the just F \sharp demanded on the occurrence of that most ordinary of all changes of key, the change to one Sharp more. And because it is found always to make just concords with sounds coloured *white* in the preceding arrangements, it is itself coloured white. In the calculations which follow, the index 26 will be inserted in its place in the Normal scale.

Certain additional finger-keys on this and the other boards, bearing a resemblance in shape to the keys of a flute, will for the present be taken no notice of.

The second or middle finger-board presents the key of G, or the sounds formed by commencing the harmonical division on the *Fifth* of the preceding key of C. To calculate which, add each of the numbers of the Normal scale to 31 the index of the Fifth, (casting out 53 as before mentioned), and the result will be as follows.

To 0, 5, 6, 8, 9, 11, 17, 22, 26 (Tritone), 31, 36, 39, 44, 45, 47, 48, 53.
Add 31

Makes 31, 36, 37, 39, 40, 45, 48, 0, 4 (Tritone), 9, 14, 17, 22, 23, 25, 26, 31.

In which such numbers as are found in the Normal scale, indicate the recurrence of the same sounds as in the key of C, and the others indicate new sounds, which must be supplied by calculation. The construction, colouring, &c. of the finger-keys, are relatively the same as in the C board.

The third or highest finger-board presents the key of E, or the sounds formed by commencing the harmonical division on the *Major Sixth* of the preceding key of C, or (which is the same thing) on the *Major Third* of the primary key of C. Add therefore each of the numbers of the Normal scale to 17, and the result will be

17, 22, 23, 25, 26, 31, 34, 39, 43 (Tritone) 48, 0, 3, 8, 9, 11, 12, 17.

In which such numbers as appear neither in the key of G nor C, indicate new sounds, which must be supplied as before. The construction, colouring, &c. of the finger-keys, are relatively the same as in the other boards.

On the same principles are to be traced the additional sounds wanted to complete the other keys furnished by the instrument, and which are to be executed by means of the flute-like finger-keys formerly mentioned. These additional keys however, are not all so complete as the three

principal ones of C, G, and E; often wanting some of the least usual forms of the Dissonances.

In the C board, with the addition of one finger-key, (a Grave G), are presented the key of F, wanting the Minor Seconds, and the Grave forms of the Minor and Major Sevenths; and the key of A \flat Major, complete throughout.

In the G board, with the addition of two finger-keys (an Acute C and an Acute F), are presented the key of D, wanting the Acute Minor Second, and the Grave Major Seventh (to be found however in the E board); and the keys of B \flat Major and E \flat Major, complete throughout.

In the E board, with the addition of three finger-keys (an Acute A, a Grave B, and an Acute C \sharp), are presented the key of A, wanting the Grave Minor Seventh (to be found however in the C board), and the Grave Major Seventh; and the key of B, wanting the Acute Minor Second (to be found however in the G board), the Grave Major Seventh, and the Tritone.

The instrument therefore, with the reservations now or hereafter stated, presents the power of playing in any key from Four Flats to Five Sharps, both inclusive.

The sounds contained in one octave, with the boards on which they are found, may be collected from the following Table.

Board in which found.	Name of Note.	Number in the Normal scale.	Measures.
C	C	0 or 53	1. <u>.987651320</u>
G	C \sharp	1	.96
E	C \flat	3	<u>.9481</u>
E	C \sharp	4	.9375
C	D \flat	5	<u>.925925</u>
C	D \flat	6	.9
C	D	8	.88
C	D \sharp	9	.864
C	D \sharp	11	.8533
C	D \sharp	13	.833
C	E \flat	14	.8
C	E \flat	17	<u>.790123456</u>
C	E	18	.75
C	F \flat	22	<u>.740740</u>
C	F \flat	23	.72
C	F \sharp	25	.711
C	F \sharp	26	.675
C	G	30	.66
C	G \sharp	31	.64
C	G \sharp	34	.625
C	A \flat	36	<u>.617283950</u>
C	A \flat	37	.6
C	A	39	<u>.592592</u>
C	A	40	.5688
C	A \sharp	43	.5625
C	B \flat	44	.55
C	B \flat	45	.54
C	B	47	<u>.533</u>
C	B \sharp	48	.5
C	C	53 or 0	.5 Octave.

The mark* indicates the small finger-keys which are found in addition to those of the Double Dissonances. In the column of Measures, a line drawn over any number of figures, indicates that those figures form a perpetually-recurring decimal.

The compass of the instrument is four octaves, from Gamut G to G in *alto*; with three Stops, Open Diapason, Stopped Diapason, and Principal. The whole number of pipes consequently is a little more than in an Organ of the same compass with seven Stops on the ordinary construction.

THE BREAK.

An appearance that may be described under the above term, requires to be noticed.

If (on the actual construction of the Instrument) the Key-note be changed from F to C, from C to G, from G to D, and from D to A, by beginning the harmonical division afresh each time from the just Fifth of the preceding key, the A arrived at will be the 40 of the Normal scale instead of the 39, being a Comma higher than the A which is presented as the Key-note of the key of A on the highest or E board, and which (as being the just Major Sixth to the primary C) is required, for instance, to make the *synonymous* (or as it is loosely called, *relative*) Minor to the key of C. This therefore creates a certain degree of check to modulation in that direction; and may be designated as the 'break.' And in like manner in ascending by successive Fifths from the key of A \flat , it will be found that there is a 'break' on proceeding to pass the key of B \flat , the Fifth to the B \flat not being the F presented as the Key-note of the key of F upon the instrument, but a Comma higher. The probability seems to be, that an unfettered instrument like the voice or viol, would begin upon either of the sounds presented to it, without embarrassing itself with one being a Comma higher than the other. But because the Organ is *not* an unfettered instrument, the performer must submit to limitations till somebody can remove them.

Upon this subject, little more can be said at present, than that the consequences are for future inquiry, for the purpose both of estimating their amount, and examining the possibility of increasing the powers of the instrument by alterations in the construction. But of all conclusions the most unreasonable, would be one which should propose to apply to a system of Temperament for relief; being, as before, comparable to nothing but the proposal to obviate the difficulty of making likenesses of many faces, by making a likeness of none.

As no very peculiar advantages appear to have attended the selection of the keys C, G, and E for the finger-boards (an arrangement which was derived from conveniences discoverable on the Guitar); on another occasion there would be a disposition to try the keys of C, A, and F \sharp , in which it is imagined that with a moderate number of additional finger-keys, a range might be got all the way from D \flat to F Double Sharp, both inclusive.

DIRECTIONS FOR BEGINNING TO PLAY.

In the book provided, select a passage in one of the keys of C, G, or E, where the board is specified in red ink underneath the line without any subsequent change of board. Cast the eye through the whole, to see in what places the unusual form of a Dissonance is marked by a dash in red ink obliquely across the head of the note; the Acute form being distinguished by the dash pointing upwards (in following the line in the usual way from left to right), and the Grave form downwards. Play the passage in the usual manner; only observing to take the unusual forms of the notes in the places marked. Practise in this way, in the Major and Minor of the same key.

Next proceed to some of the other or less principal keys. In which the only difference will be, that some of the additional finger-keys will be called into action, the demand for them being indicated in the book in the same manner as before.

Proceed next to some of the most marked and simple changes of key ; as for instance to the Synonymous (or relative) Minor. The change of boards required for this, will be indicated in red ink under the line as before.

From the passages where the marks in red ink are least frequent, proceed by degrees to those where they are thickest. Attend to what *can* be done, and not to what *can not* ; as being the most likely way to advance to the limits of the possible. If after all there is something that cannot be done, the question will then arise of its comparative value, and particularly whether it is imperative to reject Correct Harmony for the sake of it.

In the whole of this, assistance towards dispensing with the book will be derived from observing that the colour of the questionable notes is the same as of those with which they are connected.

If the book were to be printed, it would be proposed to express those various indications in such a manner as to admit of their being coloured red at the discretion of the user. But it is imagined that a little practice would dispense with the necessity.

TRANSLATED KEYS.

A circumstance that may be designated under this title, is presented for examination and inquiry.

It may happen that a piece of music which cannot be reduced to Correct Harmony if played in the key to which it appears naturally to belong, may be reduced by playing it in a different, or what may be called a 'Translated' key. For example, the celebrated Canon of '*Non nobis Domine*,' cannot be made into Correct Harmony in the key of G or C, to one of which at sight it would appear to belong ; but it may, by playing it in the key of D, and introducing the F \sharp and C \sharp as if from the Minor of D, in the places where they may be required. It was undoubtedly with a view to the same facts, that the author of the Article 'Counterpoint' in Rees's Encyclopædia has said that in this Canon the treble and bass are in G, and the second or intermediate part in D ; which will not make all the chords just concords after all. Is it then permitted, to reduce passages to Correct Harmony by this kind of 'translation?' At all events is not this, or something corresponding, what will actually be done by singers with correct ears, who assuently will in some way or other refuse to execute false concords?

Another question which may occur, is, whether it is permitted to change from one form of a Dissonance to the other, for the sake of harmonizing with two successive notes or chords ; or whether this is to be held a fault in the music which requires it.

MISCELLANEOUS OBSERVATIONS.

Though the immediate operation of Correct Harmony is only on the mechanical or executive part of Music, there appears no inconsiderable likelihood that light may ultimately be thrown by it on some of the principles of Composition. One imminent result may be held to be, that

all music which cannot be distinctly referred to some key or changes of key, will be considered as jargon, or at the best, likened to the sounds a child makes upon an instrument and asks if they are not pretty. They may be pretty or not, but science is the road to what is better.

A direction in which it is hoped to arrive at increased efficiency, is in the execution of the remoter relations of harmony which go by the name of Discords. The nearer relations pull upon the ear in time; and there is probably truth in the notion, that the purity of proportions has still more effect in increasing the beauty of the remote relations, than of the near. And another reasonable expectation is, that considerable difference of effect will be found to arise from the use of particular forms of the Dissonances, even where it cannot be traced to, principles as above, or has to a certain extent the appearance of going contrary to them. For example, there appears to be often in solos a peculiar brilliance in taking the Acute Second in ascending, even at the peril of making an imperfect Minor Third with the Fourth that comes afterwards. This however may possibly be solvable by some unobserved change of key which virtually takes place. The whole of this part of the subject, in fact, is for observation and inquiry.

It is very desirable to know what would be the effect on singers, (solo, glee, and chorus), of singing in company with an Enharmonic instrument.

One way of multiplying such experiments, would be by the application of the Enharmonic arrangement to the Babel Organ: sometimes used in churches; which may be effected with very inconsiderable increase of expense.

It is imagined that the tuning of an Enharmonic instrument would be much more easily learned *ab initio*, than the methods in practice; all that is required for the purpose being a list of the Consonances, &c. with which the notes are in succession to make the just concords specified. It will further be for inquiry, whether a Monochord would not be a useful guide, not so much for the purpose of framing all the notes by it, as of detecting the cases where the errors of the ear may happen to accumulate.

It is further expected that such an instrument will be found to continue in tune longer, and be less affected by variations of temperature, than the ordinary kind. For in every kind of Temperament, some notes in each direction are tortured to the extremity of what the ear can bear. The smallest changes therefore are likely to make some or other of them intolerable.

If called upon to defend the propriety of the title, 'Enharmonic,' reference must be made to the ancient Greek remains on music; where, though it cannot be denied that they are in some respects fragmental and disjointed, the bearing of the whole is to show, that the essence of what the ancients called the Enharmonic consisted in transferring the division of the canon as arrived at for a single key, to a variety of keys by beginning again on some of the previous divisions. Many of the accidents attendant on this, are described with an accuracy it would be vain to seek in any modern writer. At the same time the ancients appear to

have been shipwrecked by the grand misfortune, of lighting on a vicious division of the simple canon to begin with. After deducting the Fifth and the Fourth from the ratios of $\frac{4}{3}$ and $\frac{3}{2}$, they unhappily attempted to complete the division (See Euclid's 'Section of the Canon') by cutting off intervals equal to the Great Tone which they had thus discovered, instead of taking the next simplest ratios of $\frac{2}{3}$ and $\frac{1}{2}$, which would have led them to the discovery of the Major and Minor Thirds, and by analogy the Minor and Major Sixths; a misadventure competent to account for any quantity of failure, and for the neglect into which their Enharmonic appears ultimately to have fallen. And the great mistake of the moderns, on the subject of the Enharmonic, seems to have been the mistaking what may be called the secondary intervals for primary. Thus when what is called the *Enharmonic diesis* takes place, (of which a good example is found in the 9th and 11th bars of Rossini's air of *Deh! calma*), it is not that some outlandish interval is to occur between two successive sounds, but only that (for instance) B \sharp and C \natural in different places involving an intermediate change of key, differ from each other by about two-thirds of the just difference between a note and its Sharp or Flat, in consequence of being both of them taken in the correct proportions.

For further observations on the various parts of the subject, see 'Instructions to my Daughter, for playing on the Enharmonic Guitar. Goulding and D'Almaine, 20, Soho Square. 1830. 4s.' See also Westminster Review, No. XXXII for April 1832, Article 'Enharmonic of the Ancients;' No. XXXIV for Oct. 1832, Article 'Gardiner's Music of Nature;' No. XXXV for Jan. 1833, Article 'Harmonics of the Violin;' No. XXXIX for Jan. 1834, Article 'Jew's Harp, &c.'

It is plain that this is an effort to advance a step, which will require coolness, patience, and perseverance to determine its comparative importance. The general effect of the instrument is stated to have been pronounced good; and one eminent professional man, in defiance of labouring to a considerable extent under that privation which is so often accompanied with a sharpening of the musical sense, is understood to have applied himself to the verification of its powers, with an interest that promises an impartial decision. The event will be remarkable, if the time should have come for digging up again an old discovery, after the search has been ridiculed in *Scriblerus* as for something irrecoverably buried in the rubbish of antiquity.

ART. VI.—Poor Law Commission, Appendix to Report (A.)

THERE are two modes of dealing with a partial evil. The most approved is to make it universal, so that no one can complain of being peculiarly injured. This process goes by the names of Impartiality and Justice amongst its admirers, and is

at this moment vehemently demanded by the advocates of a Poor-Law for Ireland, who maintain that as an English labourer is impeded in his natural faculty of locomotion by the law of Settlement, the Irish peasant should be confined within similar bounds, that so their disadvantages may be equal. The other process might pass for a very homely one, were it not stigmatized by its opponents as theoretical and speculative*;—it consists of the attempt to do away with the evil altogether if it be possible, or else to check its diffusion; which in the present case would be exemplified, not by the jockey notion of loading the lighter weight, but by relieving the Englishman of his fetters.

It is needless here to discuss the general policy of a Poor-Law. The abuses of the English Poor-Law claim a separate discussion; and the application of any knowledge gained through them, to the case of Ireland, is forbidden by the express avowal of the Poor-Law advocates, that they contemplate a totally different system for that country. As their system is, however, chiefly recommended on account of its intended effect of protecting the English labourer against his Irish competitor, and this plan is at present very popular, the reasons for it will be now examined. It happens fortunately that the evidence on the Poor-Law Commission is chiefly relative to rural labourers, who are the special objects of commiseration and of the proposed protection.

The English labourer, on calculating the advantages of seeking employment where he is most needed, sometimes finds it most to his interest to remain at home idle, devouring however the reward of industry; or if his feeling of independence or the desire of a better parish prompt him to remove, he is checked by the exertions of the parish officers and rate-payers to protect themselves against the future burthen of his maintenance. These effects will be elucidated in the following extracts.—

‘The Rev. R. R. Bailey, chaplain to the Tower, who has had extensive opportunities of observing the operation of the Poor Laws in the rural districts, states,—

“I consider that the present law of settlement renders the peasant, to all intents and purposes, a bondsman: he is chained to the soil by the operation of the system... Very frequent instances have occurred to me of one parish being full of labourers, and suffering greatly from want of employment, whilst in another adjacent parish, there is a demand for labour. I have no doubt that if the labourers were freed from their present trammels, there would be such a circulation of labour as would relieve the agricultural districts.”

* See Mr. Poulett Scrope's Plan of a Poor Law for Ireland.

‘Can you give any instances within your own knowledge of the operation of the existing law of settlement?—“I was requested by Colonel Bogson, Kesgrove House, to furnish him with a farming bailiff. I found a man, in all respects qualified for his situation; he was working at 9s. a week in the parish where I lived. The man was not encumbered by a family, and he thankfully accepted my offer; the situation was, in point of emolument and comfort and station, a considerable advance; his advantages would have been doubled. In about a week he altered his mind, and declined the situation, in consequence, as I understood, of his fearing to remove from what was considered a good parish to a bad one, the parish to which it was proposed to remove him being connected with a hundred house, in which there is more strict management. I was requested by a poor man, whom I respected, to find a situation for his son, in London: the son was a strong young man, working at that time at about 8s. a week: I eventually succeeded in getting him a good situation of one guinea per week, in London, where his labour would have been much less than it was in the country; but when the period arrived at which he was expected in London, he was not forthcoming. It appeared he had altered his mind, and determined not to take the place; as I understood, his reason for refusing to accept it arose from a reluctance to endanger his settlement in his parish. Such are the instances which are continually presented to my observation, with respect to the operation of the present system of settlement.”—*Mr. Chadwick's Report.*

‘The general effect of the present system is, to stop the circulation of labour, and to prevent forethought. I find that whenever workmen are out of work, they will not shift to places where work might be got, for fear of losing their parishes.—*Mr. William Hickson, senior.*

Brenchley.—‘These sources of employment must produce a large sum, annually divided amongst the labourers of the village; and yet the stimulus produces neither industry nor skill. It is difficult to find a labourer capable of undertaking any of the employments on a farm which require skill; still, under the dearth of able hands, and consequent demand for this kind of labour, no young man seems to be anxious to fit himself for becoming either a thatcher, hedger or ditcher; they prefer lingering on the parish farm, and trusting to the pay they can wring from the parish, with scarcely any return of labour. We learned from one of the farmers, who happened to be present at the vestry held at the poor-house during the period of our visit, the following then recent facts: During the interval between hay-making and harvest, he wanted to have some roots of trees grubbed up; he went to the parish farm, on which, at this period, 30 labourers were employed, and tendered the job, at which the labourers might have earned 2s. 6d. a day, or perhaps more, to any individual there; not a single person would undertake it. He went on, and found two men at a distance, still, however, at work on the parish farm; he offered the job to them; under a variety of pretexts they declined it; it was at last accepted by two others, after considerable

hesitation, and a number of frivolous excuses.'—*Rev. H. Bishop's Report*, p. 465.

'Do the labourers ever go out of your parish to seek work?—No, they know it would be of no use; they are certain of it, as it is a general understanding in this part of the country that each parish shall employ its own poor.'—*Examination of the Overseer of Hatfield. Mr. Chadwick's Report.*

One of the most effectual inventions for sending back labourers who have ventured abroad in search of employment, is the labour-rate, which infallibly returns all non-parishioners to their place of settlement.

Chevening.—'There is an evident surplus population in this parish, for there are more labourers than are wanted in summer; 30 men were at harvest-work elsewhere last August; during the previous winter 70 men were out of employ, and from 40 to 50 in the spring, the expense of whose support from April 2nd to June 16th was 209*l.*; the value of their labour, if the materials could be sold, might be about 50*l.* One cause of this surplus is, that 25 able-bodied men were sent home from other parishes, in consequence of their adopting labour-rates.'

The following is from Mr. Chadwick's Report.—

'I found that in nearly every parish I examined, where bodies of Irish labourers are located, the evidence as to the cause of their location was of the following tenor:

'Mr. *Joseph Whittle*, one of the guardians of the poor and overseer of the poor, in the parish of Christchurch, Spitalfields, stated—

'In our parish it is a very rare thing to find any labouring men working for less than twelve shillings a week: indeed, the average rate of wages throughout the year is not less than from fifteen to twenty shillings a week. A man could not be obtained to work job-work at less than three shillings a day.'

'Are there many Irish labourers in the parish?—Yes; there is a great proportion of them, and especially about Spitalfields Market.'

'Do they usually receive the average wages you mention?—Yes, they do.'

'Why are English labourers not employed; or why are Irish labourers preferred?—Because English labourers are not to be had for love or money to perform the labour. I am sure, from my knowledge of the circumstances of the place and the employment, that there is not a sufficient supply of English labourers to take the work at any such wages. I believe the wages must be doubled to attract a sufficient supply of English labourers from other sources in the metropolis.'

'Are you not aware that, within a day's walk from any part of the metropolis, there are to be found English labourers working as hard, or much harder than any other class of workmen, for wages of about

one-half the amount of those received by the labourers in the metropolis?—Yes; I am acquainted with all the agricultural districts within 20 miles round the metropolis, and I know that is the case.

‘Why do not whatever superabundant labourers there may be in those parishes, remove and avail themselves of the demand for labour now supplied by Irishmen?—Thousands of instances may be given, where the labourers will not stir for fear of losing their parishes. I think the law of settlement is the great means of keeping the English labourers confined to their parishes; it appears to them to be like running away from their heir-looms, or their freeholds. I am sure, from my own knowledge of the Whitechapel and other adjacent parishes, that there are not enough of English labourers to be had for such wages to perform the labour. Seven-tenths of the cases of alleged distress relieved are cases of imposture.’

‘Mr. T. H. Holland, some time vestry-clerk of Bermondsey, stated:—

‘There are great numbers of Irishmen employed in our parish; but they are only employed because English labourers cannot be got to do the same work for the same wages.’

‘And what sort of wages are those?—Not less than from ten to fifteen shillings a week. An English labourer might live upon this. But English labourers would have more wages, if they were to be had for the work, because they are worth more. I have heard a saying amongst the employers of these labourers, that an Irishman must always have his master over him. An English labourer does not require so much superintendence.’

‘Why is it that, in your district, the English labourers have not taken the employment?—I fear that the facility of obtaining parochial relief indisposes them to exert themselves or seek about to procure employment, or to take the labour which is given to the Irish.’

‘Several witnesses state, that the average wages of a labourer in the metropolis are not less than eighteen shillings a week, and that Irishmen obtain these wages under such circumstances as those stated. Some divisions of labour are now occupied exclusively by Irish labourers, chiefly from custom the first demands having been supplied by their predecessors. And it is feared by witnesses conversant with labour markets, that whenever new demands for labour arise, they will occasion the location of additional numbers of this class of labourers.’

Mr. Huish, of St. George's parish, Southwark, states that, unless an alteration of the English poor-law takes place, I fear that the Irish labourers will obtain a more extensive footing in England than they now have: indeed, they will be sure to do so, because the present system keeps the English labourers shut up in their parishes.

Examination of the Rev. Dr. J. Tyler, Rector of St. Giles's, Middlesex.

‘From my experience of the operation of the Poor Laws in various parts of the country, I can decidedly state, that their effect in preventing the circulation of labour is most mischievous. As far as my experience goes, I think it probable that the Irish labourers obtain employ-

ment here (to the extent which they do) in consequence of the English labourers being kept in their parishes by the present mode of administering the laws, and the effects of the present laws of settlement. I have been intimately acquainted with the habits of the people in Monmouthshire, Herefordshire, and Gloucestershire. The harvest in Wales being later than in England, about thirty years ago a number of Welch labourers were in the habit of coming into the counties I have mentioned, and helping to get in the harvest. I believe that at present very few, if any, Welch labourers come; and that in various parts of those counties they have been superseded by the Irish labourers. In Wales they have Poor Laws; and I believe that the habit of seeking relief from the poor rates has greatly extended amongst the Welch peasantry. How far they may have given way in the competition, in consequence of having the poor-rates to fall back upon in Wales, I am unable to state.

‘Was there any ground of preference of the Irish labourer in point of skill?—I am not aware of any.’

Examination of W. Cropper, of Willoughby, Pass-Master of the County of Warwick for 26 years.

‘Then are we to understand, that for any additional work it is absolutely necessary for you to have an additional number of labourers?—Yes, we must have strangers; there are a number of public works, such as canal digging, about our part of the country, where higher wages are given, and these run away with our labourers.’

‘Why are not Irishmen employed on those works?—Because they do not know how to set about it any more than a woman would; it is only such labourers as ours that can do the work.’

‘Are you not aware that in many other parishes there are more labourers than are wanted?—Yes, I am aware that is the case even in several adjoining parishes.’

‘Why cannot these labourers be got out of their parishes?—Because they do not like to leave them: they have a notion that they are not bound to go beyond their own parishes, as they consider that their own parishes must employ them, or support them.’

‘If you were to send to those parishes where the labourers are more numerous than are required for the performance of the labour in the parish, and offer higher wages, do you expect that you would get as many as you require?—I think there might be some few young men who would come out, because they get a less parish allowance; but I do not think we should get any married men to remove, as they have a higher allowance, according to the number of children.’

‘If higher wages were offered from a distant parish to the labourers in your parish than they now get there, do you not think they would move out of it?—No, I am quite sure they would not, because, in addition to the usual parish relief, they have a very large charity there: it is some lands bequeathed in Edward the Sixth’s time, for the repairs of the church, the roads, and the use of the poor. We expend that portion with relation to the poor in clothing, and coals

and rents, and some in educating their children. At times it occasions desperate swearing to get settlements in the parish, and at all times it is a very great hindrance to people going out of the parish. I do not blame them for remaining in the parish, and sticking to their settlements; I should do so myself, if I were in their place.

* * * * *

'It is further stated [in a pamphlet entitled 'A Plan of a Poor Law for Ireland,'] that "the real injury under which we labour from the Irish immigration is caused by the permanent settlers, who colonize in London, Manchester, Glasgow, Birmingham, Bristol, and our chief manufacturing districts; every one of whom occupies a place which would have been taken by an English labourer, and drives the latter back upon his parish, to be maintained there in idleness. The continually increasing demand for labour in our large towns forms the natural vent for the surplus population of our rural parishes. But this vent is kept constantly choked by the hordes of starving Irish, whom the absolute destitution which awaits them in their native country urges over here, prepared to undertake the hardest work for far less wages than our parishes are by law compelled to give their settled poor for doing nothing." You have one great mart for labour, Birmingham, close at hand; now do not the labourers in your neighbourhood look at that or any other manufacturing place as a natural vent for their employment:—No, they never look beyond their parishes, and never go beyond them, except a few during harvest time, who go to parishes close by.'—*Mr. Chadwick's Report.*

Mr. Chadwick goes on to say,

'I do not remember to have met with an instance where any number of Irish labourers were located in a rural parish; nor in the returns from parishes have I seen it mentioned that the Irish have there affected the condition of the English labourers; but I have been informed by manufacturers, that a considerable number of Irish labourers, who are located in the northern manufacturing towns, have at times depressed the wages of the English operatives. In these towns, however, it appears from an immense mass of evidence that, except in the case of the hand-loom weavers (who ascribe their own depression not to Irish labourers, but to steam-power looms), the average wages are more than double the amount of wages received by agricultural labourers in the adjacent districts.'

'The principle evil is the stoppage of the free circulation of labour, and its consequent accumulation in particular places, an evil which is daily increasing with the general increase of pauperism. Parishes comparatively little burthened with poor are enabled, by vigilantly taking advantage of the present settlement law, to fortify themselves against the admission of any new parishioners, and to avail themselves of that abundance of labour which their neighbours are supporting, at seasons when they want it.' To such parishes the Poor Laws are an advantage, enhancing the value and the rent of the land. This power of exclusion is beginning every where to be exercised with the greatest vigilance and jealousy; in most parishes the man who makes a settle-

ment is looked upon as a public offender. The late alterations in the law of settlement by renting a tenement have greatly increased this power of exclusion; and it is quite obvious that any diminution of the number of settlements, or of the facility of acquiring them, must increase it still more. . . . Hirings for a year are avoided, apprentices refused, cottages pulled down; and were birth the only settlement, the births of legitimate children would be as zealously forestalled as those of bastards are at present.—*Mr. Power's Report*, p. 262.

It is seen above, and the evidence abounds in such facts, that the supineness of the labourer and the prudence of the rate-payers act in opposite directions, but with equal effect to prevent the supply of labour where most needed, and cause a congestion of it where hands are superabundant, and therefore wages low. Now were it not for the law of settlement and other abuses of the Poor-Laws, this labour would naturally flow to those parts where higher wages would allure it. Where hands are wanted, they must either be created on the spot or supplied from abroad. Both of these effects, in fact, ensue;—a population is bred in such counties as Lancashire, with a forced rapidity which may not be as easily checked as encouraged, and which must ultimately satisfy the local demand, without, as it might otherwise do, drawing off the excess of other places; thus is a universal plethora engendered in place of a healthy circulation. But while the population is breeding, the adult Irishman, who is unfettered by settlement law, steps into the employment which the Englishman of another parish is voluntarily debarred of, or refuses. There is great exaggeration and misapprehension abroad, as will be presently shown, as to the extent of this fact; yet it is undeniable that Irishmen do find employment in the more prosperous parts of this country. And it is proposed to give him the inducements of a poor law to stay at home. Now, it is not pretended that in his absence the settled paupers locally superabundant, would, while their existing reasons continue, supply the void they now refuse to fill;—nor is it pretended that this void can advantageously remain unfilled, or that meanwhile the Irish labourer is not worth his hire. Yet it is maintained that, for fairness sake, the law shall provide that the cow shall not eat the straw which the dog rejects. The above is really only a fair representation of the case; for it is not pretended that the Irish labourers here, by any means equal in numbers our settled paupers, who would therefore more than adequately fill, if left to natural motives, the place thus extraneously occupied.

Here is one class paid to idle, another to work; but is this the sort of competition which proves, that if the former class

had the motives of the latter applied to them; they would be in need of protection besides?

The opponents say 'Yes.' For, they add as a reason, the Irishman can underbid the Englishman, his mode of living is less expensive, his frame more vigorous, and he can spend his savings in a cheaper country.

It would be but right then to give the Englishman fair play. Take off his gyves and manacles, and the odds are for him as a workman against the world. There are few data for judging what would be the result of a fair competition, though the chances seem greatly in favour of the native occupant. He is on the spot, in the possession of the market, with the popular feeling in his favour to aid him, and better trained to the local employment.

W. Cropper, in continuation.

'Have you not had instances where Irishmen have said to you, "You give Englishmen so much—now we will work for so much less, if you will employ us?"—I never have had such an application.

'In your case; but have you not known of such application to others?—Never.

'Not in the whole range of your experience and observation?—No, never.

'Have you not heard it said that Irishmen beat down and oppress the English labourers?—No, I never heard it said in my life.

'Then what have been your chief sources of information?—Mixing with farmers at market tables, and inquiring as to how they are getting on with their work, which is usually the chief subject of their conversation. Besides that, as I reside on the Holyhead and Liverpool road, where, at some seasons of the year, I have between 100 and 200 Irish labourers passing my door in a day, and I occasionally talk with some of them. I also see them on their return from Buckinghamshire, Bedfordshire, Hertfordshire and Cambridgeshire, and the upper parts of Northamptonshire.'

'If it were said at a market dinner of farmers in your county, that the Irish labourers were the cause of degradation and oppression to the English labourers, what then do you conceive would be the comment upon it?—Why, Sir, that it was arrant nonsense, and that the person who said so knew nothing of what he was talking of; and I am sure that this would be the truth.'

'Have you not heard the English labourers complain of being oppressed and beaten down by the Irish labourers?—I never heard any such thing from the labourers in our part of the country; but the English labourers do not like the ways of the Irish, and they will never work with them if they can help it, and have a very strong prejudice against them. An Irishman will drink milk or water, or any thing, to save his money, and has many other ways which the English labourers dislike.'

'Have you not seen instances of the imitation of Irish habits by English labourers?—No, never.'

'Do you see any probability of English labourers being induced to imitate the habits of the Irish?—None whatever.'

'Have you not more labourers in your parish than you require for the ordinary labour?—No.'

'Is that the case with the adjacent parishes?—Yes, that is the case with most of the parishes about us.'

'What wages do you usually give?—About 10s. a week in the winter.'

'What allowances do you make in addition to the wages?—About two quarts of small beer.'

* * * * *

'Have you read any pamphlets on Poor Laws in Ireland, or any discussions with respect to them?—No, I have never read any pamphlets; I have heard that some people wish to have Poor Laws in Ireland, and some do not; I never entered into that question, or heard any arguments about it; I only speak of things about which I know myself.'

'As a pamphlet, intituled, "A Plan for a Poor Law in Ireland," was on the table in the office, the following passage was read to the Witness, as an interrogatory: It is said that "the labourers of the three kingdoms now compete in one common market, and those on whom the law throws the maintenance of the surplus in one portion of the empire will practically have to support the surplus of the whole?"—I have never seen a Scotchman apply for work, and as to Irishmen competing, I consider a waste of time, or talking for talking sake to talk about it.'

'Did you ever hear from the other farmers, of Scotchmen coming to offer themselves as labourers?—No, Sir, I never have.'

'After your preceding answers, it is perhaps unnecessary to ask you for an answer to the following allegation: "The British labourers are driven out of the employment which would otherwise be open to them, by the immigrating herds of starving Irish, and forced back upon their parishes, to be maintained there at the expense of British landowners in unproductive idleness"?—What may be the case about Durham or Northumberland or other places, I cannot of course speak to from my own knowledge, although from all I have heard I have no reason to believe that they differ very much from any part of the country as respects the Irish; but as applied to our part of the country, it is ignorant nonsense. Irish labourers are employed there because we cannot do without them, and we give them good wages. It is true enough that there are English labourers maintained in idleness in their own parishes, but that is because the idle think they have a right to be maintained under the present law by the parish when there is no work for them, which however is only in the winter time. So far from English labourers being driven back into their parishes by any competition, they cannot be forced out of them by higher wages from farmers who would compete for them in preference to the Irish labourers.'

'Have you not found Irish labourers prepared "to undertake the hardest work for less wages than our parishes are *by law* compelled to give their settled poor for doing nothing"?—I never found any prepared to work in that way, and never heard of any.'

'It is said, "It is quite clear that whatever is paid from the rent of land in England for the support of a supposed redundancy of labour, is solely paid in consequence of the absence of a provision for the poor in Ireland; that the Irish landlords, in fact, virtually quarter their poor upon our rates, to the extent of some two or three millions per annum. To that amount, at least, English property now pays an Irish poor's rate"?—I know nothing about the payment of rent, or the provision for the poor in Ireland. I am not aware that Irish landlords have any thing to do with our bargains in Warwickshire; they have not the least in the world to do with them that I know of. We employ the Irish labourers because we want them; and we give them as good wages as the English labourers get. We only employ them when, as farmers, we could not get our corn cut in time. As I live on the road where those Irish labourers pass, I have been frequently and am commonly applied to by farmers who reside in parishes lying distant from the road, and who request me to send them some Irish labourers, as they (the farmers) could not get men to get their corn cut in due time, and were exposed to loss. When I have been put to it to get labourers one year, and thought I should want some the next, and I have had an Irishman who has been a good workman, I have told him, "If you bring one or two as good workmen as yourself the next year, I think I shall have work for them;" and in this way the number who come has been increased.'—*Mr. Chadwick's Report.*

Mr. John Hall, Secretary to the St. Catharine's Dock Company is asked.—

'Do the Irish under-bid the English in point of wages?—Not as regards dock labour; the Dock Company make no distinction as to the place of nativity of the labourer.'

'And if so, have they always done so?—Answered above.—*Id.*

Rev. E. J. Tyler, Rector of St. Giles, Middlesex, examined.—

'Can you state whether the Irish labourers there and elsewhere, so far as you have the means of observing, obtain good wages?—Yes, I believe they obtain sufficient wages to enable them to put by money, even if they were to live on the same scale of expenditure as an independent English labourer; but by living on more simple fare, or harder than the English labourer, they are enabled to save large sums of money; though to a frightful extent the temptations of the gin-shops are continually bringing them back to a state of poverty and wretchedness. I am informed on authority, on which I entertain no doubt, confirmed by my own personal experience and knowledge, that it is a common practice among the Irish, to beg their way to London; and after having laid by their savings, which they are enabled, by agents in England, to transfer to Ireland, they either beg their way back again, or are passed by the parish authorities as paupers to their

home, where their money awaits them. I know that their children in the meanwhile beg, a very common practice among whom, for the sake of exciting compassion, is to leave their shoes and stockings, and other parts of their clothing, at home; so as to appear in the streets barefooted and almost naked.—*Id.*

All this evidence abundantly shows that the Englishman wants new motives to industry, or freedom to practise where he has the inclination;—but it by no means proves that he requires protection. As the facts stand, those labourers who are the subjects of commiseration are supported in idleness by the contributions of the rate-payers, that is, by a fund produced by other industry than their own; in great part by the industry of their English, and, in some degree, by that of their Irish countrymen. If this industry was forbidden in any degree, in the same degree would the production of that fund be hindered, and its power of supporting the pauper. As it is, the Irishman's industry is part of the aggregate productive industry, which bears the burden of all sinecurists and pensioners from barons down to paupers and bastards. The competition is like that of the artisan and pensioner; one competes for the wages of industry, the other for the wages without the industry. This is all the competition that exists at present between the peculiar objects of commiseration and their so-called Irish rivals. It is plain, that the Irishman contributes to produce the bread of idleness for the English pauper. It can be proved that he co-operates in the production of the bread consumed by the industrious too, and aids materially in opening otherwise impossible sources of industry to the Englishman.

The great influx of Irish is at the hay-making and harvest seasons; that is, at times when the amount of work to be done is such that extra hands are of absolute necessity to win the crop. The extra hands were formerly supplied (that is, anterior to the steam-packets,) by the artisans and labourers of the towns and villages. But as the occupations of the towns have so prodigiously increased, that supply has fallen off, just as, fortunately, the new facilities were opened for Irish immigration; for, had the supply of temporary labour ceased altogether, the rural labourer must have lost his occupation. It is obvious that no more land will be cultivated than will allow of its produce being safely harvested, and on the supposition that one third more labour is necessary to gather in the harvest than can be supplied by the resident labourers, one third less of the present crops will be hereafter produced;—crops being produced, not for the production's sake, but to be gathered. But still, when the crop was reduced to the means of gathering it, the harvest

would be the only season when they would have full employment, as now, and during the rest of the year hands would be superabundant and wages low; whereas, if constant labourers were just enough to cultivate the soil adequately the year through, with the exception of the busier seasons, they would have throughout the year a secure and ample subsistence, if the harvest could be gathered by extraneous aid. Their harvest wages for one month are decidedly diminished, but their employment in agricultural works for the rest of the year is thus alone rendered possible. High harvest wages are doubtless pleasant; but to any but a pauper, constant employ through the year is equally important. High harvest wages imply deficient hands, and that again deficient execution of work,—impediments to cultivation, which, in as far as they operate against the profitability of farming, tend to diminish the whole annual employment. The best situation the labourers can be placed in, is to have the largest harvest, that the general interests demand, even though they cannot gather it without aid; for to produce that harvest there must be proportionate labour during the other eleven months of the year.

Mr. Chadwick.—‘In consequence of the question being much agitated while I was in Kent the last autumn, I made inquiry into the actual operation of the competition of the Irish labourers with English.

‘The quantity of employment in all farming districts during harvest is very disproportionate to that of any other season of the year; so much so, that although it is the study of every wise farmer to spread as equally as possible all the work of the farm over other seasons when hands would be unemployed, and with this motive all work which will allow of it safely is deferred to winter, or time of comparative leisure; yet the single and exclusive work of gathering and housing the crops always requires more than the whole rural population.

‘The necessary exertions are procured by giving to the ordinary labourer high wages for piece-work which stimulates him to the utmost personal exertions, and induces him to bring afield the whole of his family to the youngest child, whose aid is of avail. This, however, being insufficient, the handicraftsmen, and artisans, wheelwrights, carpenters, masons of the towns and villages, and the grooms and stable-boys have immemorially lent their aid in this season, the male servants of the gentry are often sent out, and even workhouses and almshouses contribute a necessary though small assistance. The very gipsies who are never on other occasions seen to do a solitary job, are now as busily employed as the rest. It has often been the case that with all these extraordinary aids the hands have been too few, owing in some degree to the shortness of the period of favourable weather to gather in unusual crops. On such occasions the gentry, clergy, and magistracy have used their personal influence to

induce the officers to give the soldiers a furlough, an assistance always kindly granted, and as acceptable to the farmer as the pay to the men. Instances, nevertheless, have been frequent of farmers being obliged to use the scythe instead of the sickle. Though the resorting to this instrument has on all occasions excited the ill-will of the labourers to a very dangerous extent, for the scythe is a most powerful and efficient instrument, and it is thought that if brought into use would extinguish the usual harvest earnings.

'Of late years some Irish have made their appearance, and it is said that their competition has contributed seriously to diminish the gains of the regular labourer.

'I was of this opinion myself until I made inquiry as to the facts, and nothing contributed more to change my mind than the following statements and reasons given me by a land surveyor of Rochester who had in early life been a farmer, and was, from his occupation, familiar with agricultural concerns, and whose judgment appeared to have less bias than is usual against the Irish labourers personally, for it is certain that the Irish are not highly valued by the farmers, and they are very much disliked by their rivals the labourers.'

'He said that he considered that during the continuance of an ordinary harvest, and judging by the last, which was not an average one in Kent, that the quantity of work to be done in that period would not be over-rated at five times that of any other equal period, that is, *if every man worked only as he ordinarily does at other times*, it would require five times as many hands in harvest as at any other season. This it was that made it always appear miraculous to him, though he saw the thing done, how the harvest could be got in all through the country at the same time. But with even the extra individual exertions of the labourers themselves, which during harvest time are much beyond common, he thought that one county with another there was more than work for three times the number of hands in *constant* employ. This extra labour is indispensable and admits of no delay. And supposing the farmer by any means precluded from getting the requisite aid from "foreigners," and from those residents usually unoccupied, two thirds at least of the harvest must be lost.'

'He thought it quite absurd to pretend to grow such crops as we do, and at the same time to exclude competition with the labourer, and that on the contrary the competition is the very means by which he obtains his present share of work, for, suppose the farmer should equally employ the existing hands during ten months of the year at the usual farm work, the harvest would be at least three times more than could possibly be gotten in by these hands alone, and two-thirds of it must rot on the ground the first year. But this is a plan that could never be pursued, and the farmer of course would not be at the expense of rearing a greater crop than he might reasonably expect to house, for his object is the gathering of the crop and not the employment of the man, and therefore he would thereafter have but one third of the farm work during the rest of the year, in order to reduce

his crop to the means he possessed of gathering it in. Thus, if the labourer should insist on excluding competition in harvest, he must himself submit to diminished employment, *i. e.* less by two thirds during at least ten months of the year, for the field work throughout bears of course an exact proportion to the crops intended to be raised.

As to any distinction between Irish and other competitors, he knew no grounds for it, for every labourer had his price according to his supposed ability to work, and he never knew an instance of an Irish labourer being offered or taking less than another of equal ability. I suggested that their work was offered to the farmer in addition to the amount previously at his command, and that of necessity he could make easier terms for himself through the competition; to which he replied by stating, that he agreed with that, but thought that the actual facts were not involved in that principle; that he looked upon the competition of the Irish as being with the townsmen and other temporary helpers, and not with the regular rural labourer, who claimed, and had allowed him as a right, the precedence of all competitors for employment, and his wages were at least equal to what they had ever been in the best of times for the same quantity and quality of service. Indeed wages had not fallen in proportion with stock, rent, or the necessaries of life, and he did not hesitate to say, that equal exertions would be acknowledged by every person of whatever class, to be remunerated at least as well, if not better than ever, all the circumstances of the present and past times being considered—so much for the fact. But he considered the rural labourer as less “hearty” at his work than he used to be, he is redundant during a great part of the year, and his physical energies are never called into activity but on unfrequent occasions, and are then not long sustained, and this, and the being less strictly dependent on himself, made him a less valuable labourer even on emergency, than he was formerly when he had at all times more steady employment. It could not be denied that his year’s earnings were less than formerly, because during the year, exclusive of harvest, there are more hands than can be profitably employed, and of course at these times he has no external competition: but it is false that in harvest time he suffers more from competition than his forefathers, for though the Irish are comparatively new comers, the assistance from other quarters is more than proportionately diminished. He could not say with certainty, but he doubted strongly whether the Irish could fairly be said to have injured even the occasional extraneous competitors, for the supply of hands from the towns had certainly been for twenty-five or thirty years decreasing, perhaps through the work in towns increasing in rapid proportion, while that of agriculture was stationary or retrograde, and so offering relatively less inducement for the townsmen to turn afield. Certain he was that the population of large country towns are more exclusively “town bred”, and have fewer rural tastes than was the case but a few years back. He instanced several inns and workshops in Rochester, which used in harvest and hopping to be nearly deserted by their inmates, and many individual workers and their

families who formerly turned out, the whole of whose aid was now entirely withheld. Perhaps it might be the desertion of this class that made the occasion for the Irish labourer coming in; but sure he was, that the only persons whose earnings in harvest, the only time when the Irish are present, are lessened, are not the rural labourers, but the old aids of the towns, and if these had been displaced by Irish competition, they alone had to complain; but if they had deserted, as he thought, the Irish had the merit of coming in to fill the gap, though inadequately, and no one was justified in complaining.'

'It is often regretted that the labourer no longer is enabled to pay his rent by his harvest earnings as he used formerly to do. All my informant could say to this was, that more and more harvest money was squandered year by year, and consequently, less appropriated to any useful or proper purpose. Besides, where one husbandry labourer was married when he was young, there were now three, and therefore, as their ordinary gains diminished through increased population, and their wants increased, there was less opportunity to appropriate the harvest earnings in a lump to any especial purpose; and they were now usually anticipated before they were earned, by scores improvidently run up.'

'His opinion was, that the rural labourers had at all times, during the present generation, been too many for the ordinary work of a farm, and it had always racked the ingenuity of the employer to find work for his hands during the whole of the year. Various systems of tillage and courses of cropping had been introduced, partly in contemplation of this difficulty, and with a view to diminish it; and when it was more the custom to have in-door servants, the quantity of labour in fencing and other improvements was much more than was necessary or profitable, and was done more to avoid idleness and equalize employment than for any proportional advantage to be derived therefrom: but when haying or harvest came, then the hands had been at all times, as now, too few, and the deficiency was formerly abundantly supplied by the towns, as before stated; but this supply had gradually fallen off, and he would venture to affirm was not yet adequately replaced in Kent, Surrey, Sussex, or Essex by the Irish labourers, and he did not expect that it ever would be; for he considered that the assistance from the towns would soon absolutely cease or nearly so, and that even the high wages of harvest was inadequate to tempt the Irish labourer on so precarious an expedition for so temporary and transient an advantage, and so dependent in its results on the weather and weight of the crops, if the system of passing them should cease, and he could not believe that it could long be suffered to continue, that being the only means by which they could effect their object with a profit. Meanwhile the native, having no loss of time nor expense of travelling, being on the spot and preferred in all cases, being a more capable workman, might always make sure of a remuneration higher than that which is to constitute the reward to the Irishman for equal toil, more time, and the fatigue of a long journey to and fro, with the risk of total failure in the whole of his object.'

He argued, I think conclusively, that supposing the Irish labourers withdrawn at this season, so as to admit of a rise of wages to the rural labourer, he would be immediately exposed, in consequence of such a rise, to a renewed competition, during its continuance, from the inferior labourers of the town, who, if once called out again on such service, are numerous enough, and near at hand, to overwhelm the rural population; and that a more dangerous step could not be tried than one which should have the effect of calling out this gigantic enemy for a month's recreation in the corn fields and hop gardens; and that the present distant adversary, if he is not in truth an auxiliary, is the safest he can have to contend with.

He said that many rested partially the year round on the rates, and that the labourers were undoubtedly redundant all through Kent, and yet he had never known a harvest when every able labourer was not employed at as high wages as ever. Even if the crop of corn or hops were considered a total failure, yet the quantity harvested was valuable in proportion to its very scarcity, and the motive as strong in the farmer to save every grain, and he had never known the resident labourer suffer in wages, though doubtless they went less far after a bad season than after a favourable one, from the altered price of produce with which he had to supply himself. But he had often seen, and oftener heard of, parties of Irish offering their services, and, when there was not more than adequate employment for the usual number of labourers, being peremptorily refused on any terms, thus not being allowed to compete where the competition would really prejudice the resident labourer, but only being admitted to work where there was plainly more to be done than the latter could on any terms perform, or expect to get wages for. This was his view of the case generally, that the Irish merely were allowed to get work when their employment would not interfere with the average earnings of the labourer, for if their competition should reach that point, the already exuberant jealousy of the natives would put a violent stop to it, if it were not sufficiently guarded against by the feeling of the employer for his humble neighbours. This latter feeling, or the simulation of it, was very general, and a corresponding conduct forced on those who had no pretensions to it. But the motive was strong and universal to spend wages on neighbours in preference to all others, when there was no personal partiality, and whether Irishmen or merely non-parishioners, no "foreigner" is ever allowed to receive a penny of the farmer which can by any means be earned by a parishioner, for it is certain that every thing spent on the latter in wages is something saved in rates; and this principle goes to a pernicious extent of improperly excluding a fair and wholesome external competition, but so far the labourer has nothing to complain of in this particular, as to the opposition of interests between himself and his employer, whose natural object of getting the cheapest attainable labour is thus artificially sunk in the other of not paying for the support of the labourer without any equivalent whatever.

In fine, he contended that the only effect of the Irish competition,

or of any other in the harvest months, is the giving a facility to the farmer to house crops which would, if he were restricted to rural labourers, be impossible; and this gives occasion of increased employment to the constant labourer during all the other ten months of the year.—*E. Chadwick, Esq.*

‘It is generally represented that the influx of Irish labourers in harvest time has great effect in impoverishing the agricultural labourers of Croydon, by materially shortening the duration of the harvest, and depriving them of several weeks’ pay at the highest rate of wages. It is stated, on the other hand, that without the aid of the Irish, the harvest could not be got in at the most favourable moment; that the risk of weather is much diminished by the farmer being able to put on a great body of labourers at the right season, which, if let to pass by, would cause a waste of labour, besides the injury to the quality of the crop. On the farm of 1,300 acres, lately occupied by Mr. Maberly, about 100 Irish were generally employed at harvest by the very intelligent steward, Mr. Davis; he informed me that it was very usual with the Irish, when they proceeded from his employ to work in other parts of the country, at hop-picking, &c., to leave money in his hands, but that he never knew it done by more than two English labourers.’—*Mr. Majendie’s Report, 172.*

The alternative therefore is competition in harvest, with employ all the year; or protection and no harvest, and so none of its preliminaries.

Even under the Corn Laws, such a difficulty in the way of agriculture as absolute protection to the husbandry labourer against harvest competition, would effectually hinder all attempts at cultivation, unless a Poor Law could be made to fall on other classes to support in nearly uninterrupted idleness the rest of the year the number of men necessary for the occasional work at that season.

As to the towns the case is similar. All trades and manufactures consist of an aggregate of particular processes, each one of which is necessary to the carrying on of the whole. However dangerous, laborious, disagreeable, or unpopular any one of these processes may be, yet must these operations be performed or large connected branches of national industry be lopped off. The Irish labourer, as these extracts will show, is almost invariably found in the post deserted by the English, or not desirable for the English.

The following queries to which the answers are subjoined, were transmitted to *Mr. John Hall*, the Secretary of the St. Katharine’s Dock Company.

1. Is the proportion of Irish to English common labourers in the St. Katharine’s Dock, distinguishing permanent from extra labourers, the proportion may be of Irish about

one-half, of the *preferable* about one-third, of the permanent less than one-fourth.'

'What are the wages of permanent and extra?—The wages of a permanent labourer are 16*s.* per week; extra labourers 2*s.* 6*d.* per day, the latter being only employed according to the demands of the service.'

'Is there ever any insufficiency felt of *English* labourers?—There is; without the aid of the Irish and some Germans, the business of the docks would at times be impeded.'

'If there are *English* enough for the work at the same wages, why are any Irish employed?—See above.'

'What are the general characteristics of the Irish, as compared with the *English* in point of sobriety, steadiness, skill and efficiency?—The Irish employed in the docks are usually powerful men, and are certainly capable of giving to the company in certain species of labour, such as working at the cranes jiggers, a better return for their pay than the generality of the *English*. We generally class them in gangs together, finding they work to more advantage. When so selected, and we usually take them for the performance of such labour as requires great athletic powers, we have no reason to complain of their conduct whilst within the walls of the docks; the rigid rules established in this dock as respects punishment in cases of inebriation, have operated as a complete prevention, and the most strict discipline is preserved.'

'The *English* labourers having generally a better education, they are chiefly selected for the lighter work, and in the execution of which it frequently becomes necessary to examine marks and numbers, and make entries for which they are more suited than the Irish. The Irish on the other hand, appear to be quite contented with promotion to be permanent labourers, and are content with their 16*s.* per week, whilst the *English* labourer shows a desire to get relieved from the laborious part of the duties, and seeks promotion where his knowledge of reading and writing may be rendered more available, and which therefore lays the foundation for appointment as foremen. No labourer is entitled to employment in these docks, unless he be furnished with a ticket, which is granted only upon his being able to produce testimonials, such as are required by the accompanying notice.'

'If the *English* are superior or at least equal in their qualities, why is not a preference of employment given to them at the same wages?—For the reason before stated, the superiority of the *English* labourer is of a limited character as respects hard labour.—*Mr. Chadwick's Report.*

Examination of Mr. William Cropper, as before.

'Do you ever employ many Irish labourers in your part of the country?—Yes, sometimes a great many.'

'Do you use them yourself?—Yes; from my situation, I have become well acquainted with the habits of the Irish poor who migrate into England.'

'Do you know the circumstances under which they are employed?'

—Very well, as 'I farm some land myself, and I have employed them upon it; and I am well acquainted with the agricultural management in the county.'

'Why are Irishmen employed by you and others?—They are only employed for reaping and harvest-work, when we cannot get a sufficient number of English labourers to do the work.'

'At what wages are the Irish labourers usually employed at those times?—At from 2s. to 4s. a day.'

'What wages do you give the English labourer at the same time?'

—Much the same wages, only the English labourer requires more beer, and such like things.'

'How are the Irish labourers as to skill?—Very inferior to the English labourers, though the Irish labourers are much better workmen now than they used to be formerly, as they have probably had much more practice of late; but they do not know how to go about things so well as the English labourer. Every English farmer would say that. With an English labourer, you can say, "Go and do this," and he will go and do it; but with an Irish labourer, you must go and show him how to do it, and you must keep looking after him to see that he does as you want.'

'Then every English farmer would prefer the English labourers, if he could get them in the requisite number?—No doubt of it; I am quite sure that is the case throughout our county, and I have no doubt it is so elsewhere, judging from what I hear from the Irish labourers, with whom I am well acquainted, and from other sources. The Irish labourers are well aware of the fact, and make their market of it. They tell you when you are bargaining with them, "We know you would not have us if you could get Englishmen, and our price is so much;" and I have myself been obliged to give more wages to Irishmen than I have given for Englishmen.'

That they do not contend for a mere subsistence however, is proved by such passages as the following:—

'Mr. Robert Parrot, the Actuary of the St. Martin's Savings Bank, or Provident Institution, St. Martin's-place, states, in the course of some answers to inquiries which I directed to the Savings Banks,—

"It is rather remarkable the great disposition evinced by the Irish labourers to hoard up their money by sums of 6s., 8s., or 10s. per week, until it amounts to 20l. or 30l., and then withdrawing the same, invariably asking at the time for the amount in gold; assigning as a reason that they are going to return home to Ireland."—*Mr. Chadwick's Report.*

The extracts seem to prove, First, that those unfortunate English labourers for whose protection against Irish competition the Poor-law is to be introduced into Ireland, are not in competition with anybody nor anybody with them; that in fact their degraded condition is owing to their present protection against the necessity to work, and (by necessary implication) against the trouble of competing for it. Secondly, that the Irish

labourer who comes in contact but not competition with them, is merely a means of continuing open a large source of employment otherwise impracticable, and is therefore not so properly to be styled a competitor as a co-operator; and Thirdly, that whenever the Irish obtain permanent employment, they are also ministrative to those inferior branches of trade, without which the rest could not proceed as at present, but which are by common consent deserted by all but the Irish. But that nothing may remain as an excuse to shackle Ireland with England's fetters, the amount of the labour done by Irishmen here, shall be ascertained as nearly as the data will allow. As to rural labour, the Irish are no where settled in agricultural places; they are merely migratory, and the effect of their aid in harvest has been shown. It remains to be seen, what proportion the resident Irish bear to the English in towns and manufacturing districts. As there are no returns of their absolute numbers, use will be made of the evidence of Dr. Mitchell, one of the Factory Commissioners.

'The statements often made respecting the number of the natives of Ireland employed in the factories, are a very gross exaggeration; and frequently are ten or even twenty times more than the truth. If time had allowed, I would have examined all the returns from the factories now with me, but what I have done will be ample proof of what I assert. I took the first forty returns of all that came to hand where the number was not less than 400. The whole number employed you will see by the accompanying return is 26,520, and the whole number of Irish employed is only 907, being only 1 in 29. But even from this number 907, a deduction is to be made on account of many of them being the offspring of soldiers whose regiments were temporarily stationed in Ireland; for in like manner we find in the factories natives of Guernsey, Gibraltar, Malta, Corfu, and other places where there are British garrisons. In cases where only one, two, or three natives of Ireland are employed in a mill, they are generally the soldiers children. where emigrant Irish are employed, it will generally be in considerable numbers in the same mill, emigrants naturally seeking employment in the same places with their own countrymen, and also getting introduced by means of those already employed.'

'The district Commissioners of Manchester having deviated from the plan of the Central Board in the returns which they obtained, no information on this head can be got respecting that town; which is much to be deplored.

				Gross Number employed.	Irish
Hadden & Co., Aberdeen	...	...	...	522	2
Grandholm, Aberdeen	...	...	...	1152	82
Gordon, Barrow, & Co., Aberdeen	...	...	...	581	3
Banneman & Co., Aberdeen	...	...	...	443	2

Spring Gardens, <i>Aberdeen</i>	...	...	...	796	...	0
Stapley Mills, <i>Perthshire</i>	...	...	...	910	...	4
Blantyre Mills, <i>Lanarkshire</i>	...	...	...	875	...	108
Deanston Mills, <i>Perthshire</i>	...	...	...	745	...	1
Barrowfield, <i>near Glasgow</i>	...	...	...	531	...	5
Catrine, <i>Ayrshire</i>	...	...	...	869	...	9
Holdsworth & Co., <i>Glasgow</i>	...	...	...	530	...	194
Bartholomew & Co., <i>Glasgow</i>	...	...	...	427	...	55
Hussey & Sons, <i>Glasgow</i>	...	...	...	442	...	118
Ditchfield, & Co., <i>Bolton</i>	...	...	...	787	...	82
Ashworth, <i>Bolton</i>	...	...	...	532	...	0
Birley & Kirk, <i>Lancashire</i>	...	...	...	1596	...	109
Woods, <i>Wigan</i>	...	...	...	517	...	2
Pearson, Brother, <i>Macclesfield</i>	...	...	...	793	...	9
Pennington, <i>Lancashire</i>	...	...	...	807	...	5
Fielden & Co., <i>Lancashire</i>	...	...	...	477	...	0
Barley Mills, <i>Leeds</i>	...	...	...	577	...	3
Gott, Sons	...	...	...	672	...	3
Titley, Tatham, and Walker, <i>Leeds</i>	...	...	...	662	...	7
Marshall & Co., <i>Leeds</i>	...	...	...	1347	...	6
Brown & Co., <i>Leeds</i>	...	...	...	479	...	0
Taylor, Henden & Co., <i>Lancashire</i>	...	...	...	855	...	18
Ripley & Ogle, <i>Leeds</i>	...	...	...	418	...	0
Williams & Sons, <i>Leeds</i>	...	...	...	474	...	0
Williams & Sons, <i>Kirkstall Abbey</i>	...	...	...	436	...	64
Benyon & Co., <i>Leeds</i>	...	...	...	482	...	8
Bin, Nevins & Son, <i>Leeds</i>	...	...	...	504	...	0
Copeland & Garret, <i>Staffordshire</i>	...	...	...	625	...	3
Phillips & Co., <i>Staffordshire</i>	...	...	...	560	...	0
Bridget & Co., <i>Derby</i>	...	...	...	404	...	2
Courland & Taylor, <i>Braintree</i>	...	...	...	711	...	1
Grant, Baylis & Co., <i>Yarmouth</i>	...	...	...	587	...	0
Wilkins & Co., <i>near Bath</i>	...	...	...	786	...	1
Heathcot & Co., <i>Devonshire</i>	...	...	...	793	...	0
Stanley Mills, <i>Gloucestershire</i>	...	...	...	462	...	1
Cooper, Brothers & Co., <i>Tiverton</i>	...	...	...	474	...	0
				26,520	907	

It is hard to say what we are united for in our political community, if the parties are to be interdicted from communication whenever it becomes advantageous to either of them. Irishmen may freely man our navy, or serve in our armies, because we do not desire that employment for ourselves. It is more problematical whether they may officer them, because that is more genteel and lucrative, and should therefore be reserved for ourselves. It is impossible to conceive a motive for the Union, if such is to be the policy of the two countries, if Englishmen are to retain the use of a fruitful field in Ireland for the employment of capital, a

market for their products, or any other real or fancied advantages, as long as they continue to fancy it, and when it appears that the Irishman can benefit himself by the connexion, are to exclude him from the benefit, to have the good all on one side, the evil all on the other.

The Poor-law advocates do not put their object so nakedly, but say, 'Prohibit Irish labour while you can, under the appearance of a bounty on staying at home. Do not thrust them off with the pike, but hold them back to their own soil with a chain, and gild it with the coin of the Irish proprietor or consumer. Anything so that *we* are not taxed, and the English labourer is saved from competition.'

The Irish seem generally to accept the scorpion thus generously offered for an egg, and clamour for it accordingly.

The channel runs between England and Ireland, and a wider sea between us and the Indies; but both are open to English speculation, and both are fields for the employment of English capital. True it is, that one has less in proportion and the other more; but that, it will be shown, makes no difference. Capital is employed in each according to the probabilities of a profitable return; if more were to be employed in Ireland, it would be with a view to that consequence. It is certain, that the Irish population subsists; but without doubt, the productiveness of that population is less in Ireland, than any portion of it would be in England. The state of facts is then, that a certain amount of the capital of the community, and an immense quantity of muscle and labour *in posse*, exist in Ireland under their least profitable circumstances. It must not be assumed, that to make this labour productive, the whole cost of its maintenance must be subtracted from the common means of the community; the fact of its existence proves the present actual consumption of a very large proportion of all that they could, in any state of things, obtain. It is not the case, plainly, of a shower of labourers from the sky; but is the case rather of an ill-fed lazy boy, who hitherto has cost nearly as much as he will when he begins to work for us, with a profit. The putting the Irish in a position to work, is not identical with creating a new means of destroying human food.

The Irishman's case seems to be this. At present he consumes enough to keep body and soul together; which is so much subtracted from the common means of subsistence, with as little profit to himself or anybody else as possible. He just enables himself to live, but contributes in the smallest possible degree to the living of any one else. The case to be desired seems to be; that he shall continue to subsist, if he can, more comfortably,

and nearer a better market for his labour; that is, that he shall give more to society in the way of the produce of his labour, that he shall facilitate accumulation, that he shall create capital on a large scale, and not barely and miserably consume it. In return for all of which, he shall receive a portion, for he cannot possibly receive the whole of what he adds to the production; the residue going where Providence shall appoint, but infallibly some of it to every labourer in the land.

We have no right to say to the Irishman, that he shall not live on the lowest subsistence he pleases, and as unproductively as he pleases, although thereby he is of the least possible benefit to us; but it is absurdity to say that he shall not confer on us the benefit of his thews and sinews, in the advantage of which we all participate, himself included.

The fact is not that here is any creation of new consumers,—they exist already; but the conversion of old and unprofitable consumers into comparatively profitable ones.

The Irishman consumes nearly all he produces. No capital but his own, ministers to his productiveness. When he rears his potato he destroys it, and nobody is the better for his existence, but accidentally perhaps a landlord. The very mode of his existence is allowed to make the soil on which he subsists less productive than it would be if some of his neighbours were drawn off. Thus, by taking one to more profitable labour, another would be left in improved circumstances for securing prosperity to himself and to society. Whence all, instead of being of a *minimum* utility, would be of a *maximum*.

It must be allowed that the Irishman consumes more in England than he would at home; but it must also be remembered, that this arises solely from his increased productiveness,—or out of the total, of which his extra consumption can only be a part.

But if is said, that the example of the Irish labourers will degrade the English labourer to the standard of the Irish.

First,—This assumes a permanent motive in the English labourer to retrench his living; whereas, if as before stated the change operated by the Irish labourer is an increase of production, the motive will be the other way; for increased production will tend to give the English labourer increased reward.

Secondly,—It supposes that the superior will imitate the inferior; a process of which no distinct instances can be adduced, though abundance of the contrary.

Thirdly,—None but the most enterprising and ambitious Irish venture on a passage to England, and these are not the class most

likely to degrade those among whom they come. Those who come for harvest work, work steadily, avoid excess, save their earnings, and depart, leaving no permanent effect on their jealous rivals, or if any, a favourable one. Those who come to settle, come to advance themselves in comfort; this must be their prevailing idea, or why change? The very motive shows their anxiety to assimilate themselves to the English, and to possess themselves of their comforts; not to continue and diffuse the squalor they have fled from. In addition to this, it must not be forgotten, that their defective skill in the common operations of Englishmen, brings them in contact with those inferior classes only, who are not, from their position, very easily degraded, but whose models may be said decidedly to be the nearest approaching order of their own countrymen. Pains have been taken to ascertain of Sessions' lawyers, the result of their experience, and it is found that the cases in which the Irish located here, appear as criminals in courts of law, are, in proportion to their numbers, insignificant; that the mass of cases which do occur are assaults, but of more flagitious and degrading crimes they are almost absolutely without imputation, and certainly by no means to be compared with the English of the same grades. It must be allowed that drunkenness is an almost universal vice amongst them; but as a set-off it may be asserted, that their visible vices are nearly limited to that and its consequent squabbles. In short the Irish of either sex may be maintained to be as much superior in their moral conduct, as they are inferior to the English in notions of comfort.

Fourthly,—The effect contended for ought to have taken place long ago, in another case; for no subject caused more complaints half a century ago than the immigration of Scotch, who were represented as a swarm of locusts settling. Yet they have not brought us down to oatmeal cakes and water diet.

As a further objection to the argument, it ought manifestly to be taken into consideration, that granting all that is required, still while the English are being degraded, what is lost by the English is gotten by the Irish; and that if the parties were equal in numbers, they would meet exactly half way between the Irish average of subsistence and the English,—but if the English are two to one, the English will at most only have to submit to an approach of one third towards the Irish level, to elevate the Irish to a perfect equality with him. So that the opponent at all events must not frighten people with the prospect of a descent the whole depth of Irish misery. It must be allowed that the example of English comfort is more seductive to the Irish, than Irish wretchedness can be to Englishmen;

and thus more effect must be made in one direction than in the other.

It seems probable that drawing off from Ireland its adult superabundance that already exists, is better than getting our labourers into a habit of supplying a market, which requires grown hands, with labourers in embryo;—who have to be brought up with all the expenses thereof before they become of use, while on the other side there is a full-grown workman, who must be fed, even if idle, and who is ready-made to hand.

The interest of all classes other than labourers, has been purposely excluded from consideration in the above remarks. But if these are also to be introduced, it is clear that as regards the classes who may be termed employers, the policy of prohibiting the employment of the cheap Irishman, by way of enforcing the employment of the dearer instrument that is bred in another shire, is on a par with all the other noodleisms that have been founded on inviting men to use the blunt tool instead of the sharp, from some invisible principle of patriotism which nobody has been able to explain.

That English labourers would, under natural circumstances, remove to the districts where they are most wanted, can be proved abundantly from the Evidence of the Poor-Law Commission. In harvest time, allowance to able-bodied labourers simultaneously ceases all over the country, and this is the only period in which they are ever subjected to the operation of the natural motives. They are then found at great distances from their parishes; and although no very good account can be given of the use of their earnings, they are as keen at these times in pursuit of profit, as at other times they are indifferent.

These are some of the instances to be found in Appendix (A):—

'The labourers go from hence to hay-work near London, where a good hand may easily earn 1*l.* per week. They return home in time for the harvest here, they then go to the corn-harvest in the "hill country" near Lewes; they return in time for the harvest here, which is from two to three weeks later, owing to the elevation of the site and the poverty of the soil: then comes the hop harvest in Kent and Sussex. Immediately on their return they apply for relief; if it is refused, they appeal to the magistrates, who, according to the representation of the overseer generally recommend it; this practice of the magistrates is more common since the riots, in order not to irritate the men and occasion more disturbances.'—*Mr. Majendie's Report*, 176.

Lewes Vicinity.—'As an agricultural district, the vicinity of Lewes has great advantages over the Weald of Sussex; it consists partly of downs, partly of rich land below the hills, and is occupied by tenants of capital. Owing to the nature of their farms not affording winter employ to so many hands as a purely arable country,

and some caution as to settlements, the population is not sufficient in summer to get in the harvest: they usually depend on other parts of the county for the extra labourers then requisite. Those parts complain that the rich lands do not bear so large a share of the poor rate as the inferior soils, as their labourers come to the hills for harvest, and return to them in the dead time of the year, and according to the modern habits, make no savings out of their earnings, but throw themselves at once on their parishes.—*Ib.* 182.

Rottingdean.—‘The migratory part of the labouring population are a nuisance and a heavy burden to these parishes;—I mean the men, chiefly young and unmarried, who quit the neighbourhood in spring, and return at the approach of winter.’

‘In one parish, Iver, whose population in 1831 was 1,870, the sum of 365*l.* was paid in one year ending March 1831, to paupers working for “the parish,” and the return was only 25*l.*; and in the year ending March 1832, the sum of 441*l.* was expended in the same way, and the return was less than 30*l.*’

‘To place this evil, which so grievously afflicts this district, which in all other respects is in so satisfactory a condition as to its labouring population, in a stronger, but only a truer light, I may mention that these men, during their absence from their parishes, spend their earnings, which are very great, at a distance from the place to which they return for maintenance in winter. In point of fact, the parishes to which by law they belong, and to which in winter they resort, have no employment for more hands at that period than those who are constantly resident among them; and, if they had, these are the last men that a farmer would wish to see upon his grounds, or even looking over his hedge. These men, then, as the law stands, or as it is administered, are a pure, unmitigated evil to this neighbourhood. Do I do wrong in condemning the law, which tolerates, if it does not inflict, such a hardship upon the industry and economy of a country, as to permit gangs of able-bodied, unmarried men to earn, during the six summer months, from 30*s.* to 40*s.* per week, and to throw themselves for maintenance upon others for the remaining part of the year? All here aver that the wages of these men are what I have stated above; but suppose them to be only 24*s.* per week for six months, that is 12*s.* per week for twelve months, and on such an income a labouring man can maintain himself and a family the year round.’—*Rev. W. Carnall's Report*, 60*2*.

‘Applications to the petty session had been made by some labourers who had been refused relief by the overseer after they had rejected work at Wrotham Hill, twelve miles off. This hill was lowered a short time ago, and the work was let out by contract; fourteen or fifteen men of this parish might have found employment there at 2*s.* 6*d.* per day, or 15*s.* a week—high pay for winter wages. The labourers, however, one and all, refused to go unless the parish would agree to allow them two days' pay, one for going and one returning; in other words, would enable the men to make eight days of the six, and so raise their wages from 15*s.* to 1*l.* a week. In this demand they were

supported by the magistrates, who said they would not make any order for relief in favour of any individual who refused these terms; one, however, of the magistrates met the assistant overseer of Brenchley a few days after this had taken place, and told him that the magistrates were wrong in their decision, since the men ought not under any circumstances to have been compelled to go so far from their parish for work. However, no injustice occurred, for the men refused to go, though they had no difficulty in travelling to a greater distance for harvest work, which happens at a time of the year when any extra allowance is out of the question; though even then, unless they can get just the wages they choose to demand, they often return and throw themselves on the parish till their own harvest commences. They will also, without scruple, ask relief of the parish the week following the termination of the harvest; and this claim is countenanced by the bench, which decides on the business of this parish.'—*Rev. H. Bishop's Report*, 605.

If it be true as Mr. Poulett Scrope asserts, that 'the labourers of the three kingdoms now compete in one common market, and those on whom the law throws the maintenance of the surplus in one portion of the empire, will practically have to support the burden of the whole,' it might justify seeking relief from the burden; but it would do credit to our benevolence to do it in any other way than by imposing an equal nuisance on our neighbours. There may be in the above, and elsewhere, abundant reasons for relieving the English labourer from the seduction of the allowance system; and if, in addition to the deterioration of his character produced by the operation of the poor-laws immediately on him, there are other relative disadvantages cast on him by the same, a good case may be made out against the existence of the system. But if there must be competition, it is better to free both rivals than to bind both; and there is no reason to suppose that the English workman, once freed from the bonds into which he has been seduced by the allowance system, will not display his equality to the contest.

ART. VII.—1. *Practice of the Criminal Law of Scotland*. By Archibald Alison, Advocate.—Blackwood. 1833.

2. *A Summary of the Powers and Duties of Juries in Criminal Trials in Scotland*. By William Steele, Esq. Advocate.—Clark. 1833.

TWO nations were some time ago united under one government,—England and Scotland. The people of England considered that they made a sacrifice in admitting a poor and uninfluential nation to a share of their commerce, and the people of Scotland grew ferocious at the loss of their 'independ-

ence as a nation,' and of their individual right to the blessing of a race of kings. These matters however passed away, and each country then strove to induce the other to partake its just and equal laws. The English made Scotland receive their law of treason with its concomitant grand jury, and the Scotch accepted the favour, finding that it would not be a very severe infliction, and in hopes that they should be able to repay the compliment. Several attempts were made to persuade the English to accept a remuneration. A learned judge wrote a very long book containing maxims by which the English judges could decide all matters that might by any possibility be brought under their consideration, should they see fit to give up their adhesion to precedents, and decide according to Scotch equity. But all proved vain;—the English proceeded on their way rejoicing;—they compelled the Scotch to accept trial by jury in certain assigned civil cases, with the twelve men and the unanimity. The Scotch submitted, but they still complain of the matter, and in the majority of cases which occur would prefer trusting to the judges. They might perhaps, however, give up their complaint, if the English would accept their system of registering property, and then Local Courts. They have waited long for this consummation, and have been repeatedly disappointed; but if England would receive the systems, and acknowledge the name of the place where they first 'worked well,' Scotland might not only be reconciled to Civil Jury Trial, but admit without much disgust a few other material alterations.

There is no doubt, that the judicial system of Scotland has derived advantage from its propinquity to that of England, and that improvements have been made in the laws of the former which no one would have dared to introduce, had there not been 'a neighbouring nation in which the system worked well.' But it is not impossible, that, although Scotland is both smaller in extent, and poorer in proportion, than England, a detail of the administration of a branch of the law in that country, might introduce to Englishmen something 'which works well,' and at the same time show the nation at large some disadvantages in the Scotch system which should be remedied. In pursuance of this view, it is intended to trace the Scotch criminal, from the moment of the commission of his crime, through all the stages which intervene, until he suffers punishment. It is a well-known peculiarity in the practice of the Criminal Law of Scotland, as distinguished from that of England, that the commitments are in general made by professional magistrates, and the prosecutions conducted by professional persons at the public expense.

It cannot be doubted that the system is a good one, and the reasons have been already recorded in its favour. It is proposed now to enter on a more minute examination of its virtues and defects. The Procurator Fiscal, is the feeler of the law in his peculiar district. When he hears of a crime committed, it is his duty to make inquiry about it, that the criminal may be brought to trial. When he has fixed his eye on the person, he procures a warrant from a magistrate, and brings the accused before him for examination. This magistrate is generally the sheriff-substitute of the county*. The first peculiarity to be noticed is, that the examination is quite secret. It is an inquisition for the satisfaction of the judge and examinant, and the person accused can have no access to his friends, or to professional advice. In connection with this fact it may be well to inquire, who the individuals are who are thus shut up with the accused, and made arbiters of his fate. There are thirty sheriffs in Scotland. The sheriff is chosen from among the advocates or Scotch barristers. He has under him sheriffs-substitute from one to four or five according to the duty to be done. An old Act of Parliament enacted, that he should live four months in the county of which he is judge, but no penalty was specified, and the sheriff seldom lives one month in his county†. The substitutes have generally much labour in transacting the real business within the counties. An appeal lies from them to the sheriff, but litigants have generally too much good sense to make use of the privilege. As will be the case among any thirty men who have had opportunities of being well educated, there

* Commitments by Magistrates of Burghs, not so frequent, are managed exactly in the same manner as those by Sheriff.

† In 1832, a return of the residence of the various Sheriffs in their counties was called for, along with the cases decided, &c. Many had no certain data on which to answer, and declined coming to a conclusion from personal recollection. The Sheriff of Edinburgh only showed a deduction of a week of two in the year. Sheriffs of neighbouring counties spoke of their different visits. One gentleman whose headburgh was sixteen miles from Edinburgh, had during some years, paid visits to the respective amounts of ten, twelve, thirteen, and fifteen. The following are the terms of one return.

Residence of the Sheriff Depute.

1827.... Three weeks

1828.... Five days

1829.... The Sheriff Depute did not reside.

1830.... Six days.

1831.... One month.

One gentleman observes, that 'He has in each of the last five years, made frequent visits to the county, both on business and by way of compliment, but has no means of reporting either the precise number, or the duration of those visits.'

are one or two men of talent and learning among the sheriffs. Sir Walter Scott for instance was a sheriff. It is however generally understood, that the man appointed to such a situation is a man of good family, well affected to government, whose deficiencies might be the means of doing mischief in almost any other situation of equal profit, but who must be done something for. The Bar have found an excellent theory justifying these appointments. They say it is fit that a sheriff, a person who is to be judge over a district of country, should live in Edinburgh, the centre of legal knowledge and practice, that he may keep a check upon the administration of his working substitutes who may be only country practitioners. A sinecure superior who does actually keep a check upon the proceedings of his labouring and experienced assistant, is a rare character in natural history; but as the argument is a practical one, it must be practically met. Among these sheriffs there are not five men in good business,—not above six or seven who get a brief once a week, litigants not agreeing to hold the same opinion of their legal knowledge which the makers of judges vouch by their choice; and it may be safely said that they would be more useful if residing in their counties and reading the reports, than living in Edinburgh and dining out. It is always said however that the system works well, and the point may be conceded, if the meaning of the assertion is simply that the sheriffs personally do little harm beyond the appropriation of a few annual thousands of the money of the people. Their local influence however is dangerous, and this is a matter having considerable reference to the subject in hand. The sheriff has the election of his own substitutes, and of such Procurators Fiscal as may be necessary to conduct the criminal prosecutions in his Court, procure committals of criminals for the Supreme Court, one Procurator with an assistant being sufficient for a small county*. The origin of this office seems quite unknown to the Scotch lawyers. The coroner or crowner, who to all appearance was a popular officer, during the 14th or 15th centuries performed the duty of presenting criminals for trial in the districts. . At what time the prosecutor for the public became prosecutor for the Crown, it would be difficult to determine. The name is taken from a Roman office with a different duty. The *Procuratores Casaris*, or *Procuratores Fisci* were simply the collectors of taxes. The collection of feudal fines, may have paved the way to an officer of that name becoming prosecutor.

* During last Session, Mr. Murray, Member for Leith, brought in a Bill to vest the election of Procurators Fiscal in the Crown. It stopped in its progress.

The name occurs frequently in the law books of the German states, and of the Low Countries, where he is mentioned as a prosecutor in commitments, and has other points of resemblance which leave no doubt of his identity with the Scotch officer. A somewhat similar though apparently more important official in the Eastern empire, received the parallel title 'φίλας προνιτής.' The *Procureur Général* of the provinces in France, exercises exactly the same duty which is performed by the Scotch Procurator Fiscal, in procuring commitments. His duties as prosecutor to conviction, are perhaps more extensive, those of the Scotch Procurator being limited by the powers of the sheriff, who cannot banish, and has not for some time past exercised the power of condemning to death, which by the theory of the law he possesses. The sheriff of a county being the nominator of his own substitutes and his own Procurators Fiscal, forms an establishment consisting of several members, who may have peculiar private interests to attend to, and will often be able so to attend. The sheriffs-substitute are not entitled to prepare papers before any Court as agents, but they frequently act in private as law agents. The Procurators Fiscal are almost always chosen from among the active solicitors in the Provincial Courts. When it is recollected that the examinations of accused men are conducted in secret, it will easily be seen that in many cases the interests of the parties connected with the examination may be in opposition to those of the public, and that the virtue of a legal practitioner may be sorely tried. It will be said in answer, that there are no instances of dereliction of duty on the part of these officials. Censure of the system does not imply actual roguery on the part of individuals; that they have an opportunity of being rogues, is a sufficient reason for urging an amendment. But there have been instances in which substantial reasons for presuming improper proceedings to have taken place, have transpired beyond the atmosphere of these secret conclaves. In the case of Thomas Muir, a witness for the Crown was objected to, on the ground of his having acted the part of an agent for the prosecutor. Witnesses were brought to prove the ground of the objection. The witness objected to was the Reverend James Lapslie. He had assisted the Procurator Fiscal and the sheriff in making examinations. A scene was thus described by one witness. 'Henry Freeland deposes, that he knows Mr. Honeyman sheriff of Lanarkshire, and saw him at Kirkintilloch, in company with Mr. Lapslie [the witness objected to] and another gentleman a writer in Glasgow. Mr. Honeyman examined the witness about Mr. Muir, and during the precognition Mr. Lapslie also

put questions to the witness. He asked him if he had got a college education, which being answered in the negative, Mr. Lapslie said, he was a clever fellow, and when he saw him write, he said it was a pity such a clever fellow should be a weaver, and that it was in Mr. Honeyman's power to procure him a birth, which was said in presence of Mr. Honeyman.* Such is a specimen of the legitimate use of an inquisitorial examination for commitment, and no active political Procurator-Fiscal or sheriff would hesitate to adopt such convenient means of bringing people of improper principles to justice. Obedience by a public officer to the dictates of private interest or malice will, of course, be very rare; but the opportunity must tempt, and there is not a positive absence of instances. Take the following, accidentally met with in a newspaper of the year 1815. At the Autumn Northern Circuit of that year, Alexander Harper, iron-monger, in Banff, was accused of reset of theft [receiving stolen goods]. After the examination of two witnesses on the part of the prosecutor, the Depute Advocate addressed the Court and stated, that from the evidence of these witnesses he found he had been misled and misinformed with regard to this case; that he now believed the panel [person under trial] to be perfectly innocent and incapable of having committed the crime of which he was accused; and expressing his regret for the trouble which the information given to him had occasioned to Mr. Harper, he abandoned the prosecution. In addressing the jury, the Lord Justice Clerk passed a severe censure on the official gentleman whose improper interference and erroneous information had been the cause of this prosecution; and added, that should any similar proceedings again occur in the same quarter, the disapprobation of the Court would be more strongly marked†. But the days are almost gone, in which a public prosecutor might dare to bring a man before a public tribunal, accused of a crime not political, which has its existence only in private malice. The practical evils of the secrecy, and the connexion of the different examiners with each other, will be in what they omit to do, more frequently than in what they do. Scotchmen are not in the habit of deserting their friends or patrons, and a man would feel it unpleasant to bring his client, or the brother, or tenth cousin, or intimate friend of his client, to trial for forgery or fraud, when all might be avoided by keeping silence, or hinting to the offender the propriety of leaving the neighbourhood. Hence it frequently happens that men of influence in society are believed by the public to have com-

* State Trials, 140.

† Edinburgh Courant, Oct. 2, 1815.

graved crimes of magnitude, and no one can tell more of the matter, than that the person is believed to have done so. As will be seen hereafter, considerable difficulties stand in the way of private prosecutions, and it is a general belief among those who are not lawyers, that the private party is not entitled to prosecute.

When the secret examination of the accused, and of the witnesses (who are not examined in his presence), is terminated, he is either dismissed, or committed for trial. If his offence is slight, calling for a brief imprisonment, he is tried before the sheriff, with the Procurator Fiscal as prosecutor; if it is more serious, he is tried before the Court of Justiciary, with the Lord Advocate as prosecutor. A document of great importance to the prosecutor, is part of the proceeds of the secret examination,—the declaration of the prisoner. This document is produced in the court where he is to be tried. It contains the answers given by him to a long and harassing line of cross questions, put for the purpose of making him contradict himself and show that he is a guilty man. It is a theory, a 'fiction of law,' that a declaration never can be pleaded in the prisoner's favour, because it is his own statement, and whatever it contains can only be built upon in so far as it tends to criminate him. This is a strong inducement to the exercise of cunning on the part of the accused; it is a premium on superior talent or audacity, and the declaration of a young offender is frequently conclusive, while the veteran who knows the system and thinks it silly to be his own accuser, may manage to baffle the terriers of the law. It is a common remark among lawyers, that the more prudent alternative for a person under examination, is, whether guilty or innocent, to answer no questions. Yet a prosecutor who holds in his hands a certified statement of refusal to answer, considers he can have no better evidence. Muir and many of the other persons tried for sedition, refused to answer questions, on the ground of the impropriety of the system; and the documents proving their refusal were read as evidence. It is understood to be the duty of the examiners to warn the prisoner that his declaration may be used as evidence against him. The document itself must always bear 'that the prisoner emitted it freely and voluntarily, and was in his sober senses;' but in the case of a prisoner maintaining that the declaration was dragged from him in a moment of intoxication, distraction, or agitation arising from the circumstance of being just accused of a great crime, he can have no witnesses but the persons he charges with misconduct—his examiners,—who have already certified that the prisoner made his declaration in his sober senses &c.; a thing so

much a matter of form, that, in a case which happened a few years ago,—where all that the examiners had to record was a set of questions, with a statement after each, of the prisoner's having remained silent,—a certificate was appended stating in the usual manner that 'this declaration was freely and voluntarily uttered, the prisoner being in his sober senses, &c.' It is unlikely that a crown officer will in cases of crimes not political, urge a trial where he believes the accused to be innocent; but were he inclined so to do, with a declaration in his hands taken from the prisoner in secret, just apprehended and therefore in agitation, and slightly coloured in the expressions by the clerk who writes it, it must be very clear evidence of innocence indeed, that would balk him of his victim. The present crown officers of Scotland urge in favour of the declaration, that they never use it, except where it is absolutely necessary for securing a conviction. That is to say, they do not use improper evidence, except in cases where there is no purer evidence to counteract its effects. The necessity is found to happen in about two-thirds of the cases tried.

After his declaration, accompany the prisoner to trial. If his offence is of a minor nature, the sheriff's court affords him an expeditious, and if before a jury, a not less formal trial than the High Court. But if the case is very trifling, he may be tried without a jury; in the law books there seems to be no attempt at any line of demarcation, and the question seems left for the decision of the judge. In still more trifling offences, which can only be punished by a fine of 10*l.* or imprisonment for sixty days, sheriffs and borough magistrates are entitled to proceed summarily, which means that they are entitled to convict as expeditiously and as frequently as possible, and upon any ground or in any manner that best suits their taste. This is a never failing instrument of punishment, where the crime is the possession of a character disliked by policemen and other public functionaries. It is one of the many illustrations of the British maxim apparently acted upon, that justice should vary in the ratio of the magnitude of the subject matter at issue.

The prosecutions before the High Court of Justiciary are conducted by the Lord Advocate, and his assistants the Solicitor General and four Depute Advocates. The Lord Advocate is in possession of powers extensive and easily abused. He is not subject to proper correction from, or responsibility to, the public or any public body; yet perhaps his duties and powers are not so awfully alarming as they have been represented in an article in a northern Review. The first great objection

to this office, is, that the tenant of it is the servant, not of the public, but of the ministry. He is the virtual Secretary of State for Scotland, yet not the responsible one. Being the only high member of the administration connected with Scotland, he is the adviser of all legislative or executive measures connected with that part of the country, a purpose for which his previous habits as a practising lawyer, and his unacquaintance with statesmanship, render him frequently unfit. If it is necessary that there should be a responsible Secretary of State for Scotland, a thirtieth part of the proceeds of the sinecures connected with the Scotch Courts would provide a salary for an active, working, and talented man. But not only do the Lord Advocate and Solicitor General duly resign with the fall of their party, but their four Deputies, who have an extensive and important part of the business to perform, and having only moderate salaries and much to do are generally good lawyers and active men, must follow their superiors in a patriotic retirement from 'office.' Thus is justice disturbed, until a new band of its administrators, previously ignorant, are made acquainted with their duties. When along with this political connexion it is considered, that unless he chuses to be peculiarly respectful to public opinion, the only tribunal before which the Lord Advocate is responsible is the administration, which can turn him off when he does anything to displease it, and that there are difficulties in the path of a private prosecutor, many instances will not be required to show how useful the prosecutor may become to the ministry, and how dangerous to the public. In the palmy days of prerogative, the public prosecutor of France was elected *ad vitam aut culpam*. When the proceedings of a king came to be sometimes impertinently questioned, recourse was necessarily had to means, the necessity of which the bold Bourbons never contemplated. But the Stewarts seem to have had more foresight, and to have prepared for all contingencies. It would be idle to collect the early instances of the evils of the system; it is enough to look to one or two later illustrations. When a private party prosecutes, it is necessary that he should have the concurrence of the Lord Advocate. This is said to be a mere matter of form, which the Lord Advocate cannot refuse. If he cannot refuse it, why is it necessary that he should give it? If backed by ministers, it might be difficult to discover any authority capable of compelling him. The private prosecutor must however have a peculiar title; he must be a person on whose property a fraud has been committed, or the representative of a person murdered, &c. In 1766, Sir John Gordon and other unsuccessful candid-

ates for the magistracy of the Borough of Dingwall, wished to prosecute the persons elected, on a charge of bribery and corruption. The election had been nullified on these grounds in the civil court. The Lord Advocate refused to prosecute; he gave his official consent to a prosecution by the private parties, but they were found to have no title to pursue. They applied to the Court to compel the public prosecutor to act, but the Court found an interference with the King's Advocate beyond its power; so whether guilty or not, the Lord Advocate refusing, there were no means of trying these men. In the year 1767, an attempt to prosecute for perjury, and another to prosecute for bribery at the election of a Member of Parliament, met with a similar fate, and the law on the point is still the same. A case of more recent public interest must here be recorded, in which neglect of his duty by the Lord Advocate, real or alleged, produced a feeling of indignation through all Scotland, likely to bring the office into contempt, and by making the people see its liability to censure in some things, impede its utility in others. The boys, with the more idle and disorderly part of the adult population of Aberdeen, had been in the habit from time immemorial, of meeting on the streets on the king's birth-day, and enjoying themselves without respect to persons; a licence with which the excellent magistrates, inflated with joy for the happy and fortunate occasion and so forth, never interfered. In the year 1802, the Ross and Cromarty Rangers were quartered in Aberdeen. The officers were invited in the usual manner to drink to the joyful occasion, in the Town House along with the magistrates. In the fullness of their loyal exultation they got very drunk, and wandering through the most public streets, afforded opportunities to the boys (determined not to be outdone in riot), which could not be rejected. They were liberally hooted, and their uniforms spattered with mud. The situation was irritating, but it did not justify what followed. The soldiers were called from the barracks and ordered to fire. Four citizens were shot dead, and some wounded. By the general law of Great Britain, soldiers who act without the orders of a magistrate are liable for what they do, as citizens. By the particular law of Scotland, self defence is the only justification of manslaughter, and here murder had without doubt been committed. The magistrates commenced an examination which lasted for some days. They sent early notice to the crown lawyers of what had happened. But before the precognition [examination] was transmitted to Edinburgh, the public attention was attracted by the sheriff of the County, at the desire of his Majesty's Advocate, examining

several persons, chiefly soldiers and servants of officers, by way of exculpatory precognition; a mode of procedure very unusual if not unprecedented*.' There could be no impropriety in examining any witnesses who might throw light on any branch of the subject; but for the prosecutor to examine the friends of the accused in the first instance, was certainly an extremely 'unusual' measure on the part of that gentleman, and prompted the opinion that the most obvious duty of his Majesty's Advocate in such a case, was to protect his Majesty's servants when they got into a scrape. The Lord Advocate finally declined prosecuting, and the parties accused were dismissed on bail. The father of one of the persons shot, undertook to prosecute as a private party. There is no provision for the costs of prosecutions by private parties in Scotland, and the expense amounting to 900*l.* fell upon the prosecutor, and such persons as chose to assist him with subscriptions. The persons placed at the bar were the lieutenant-colonel, a captain, and two serjeants. The evidence adduced was confused and miscellaneous, but the following was the thread of facts. The colonel and captain had been tempted by the well-seasoned northern magistrates, far beyond the bounds of moderation. The captain was the first to leave the Town House. He preferred passing through the market place, to going by the street which led directly to his lodgings. A tipsy officer was an object of unusual attraction. Some citizens declared the town to have been in a more orderly state on that night than was usually the case; yet the captain was certainly sorely insulted. He was hooted, missiles were thrown at him, and a large handful of mud hit him in the face. His behaviour was like that of many a tipsy man; at one time he took off his hat and tried to cheer his assailants into good humour, and at another he rushed upon them with his sword drawn. At the same time the captain of the guard, who was near the spot, was receiving similar marks of favour. The captain went to consult the 'city authorities'; but their mouth-piece, the town clerk, not perhaps esteeming the matter so important as it was conceived to be by the enraged officer, sent what appeared to him the assistance most wanted, two city officers well accustomed to such matters, to attend the drunken man home. Meanwhile the colonel made his appearance in a state of still greater intoxication; and the people in the street being more ready to recognize superior drunkenness than superior rank, he was received more contumeliously, and had even a fist shaken in his

* Trial before the High Court of Justiciary in Scotland, at the instance of Daniel Ross Woodsawer, in Aberdeen, against Lieut.-colonel George M'Kenzie, &c. 1808.

face by a sailor. It was agreed that the soldiers should be called from the barracks. The regiment had just returned from either witnessing or acting in the authorized murders in Ireland. They had a proper contempt for the multitude, and were maddened at the insults offered to their officers. When formed, they were ordered to load. Some citizens then interfered, and persuaded the officers to march them back. The request was complied with, but as they were retreating, the crowd uttered a shout of deision. The soldiers turned and fired in disorder; one or two persons fell. The soldiers were pursuing the crowd with fixed bayonets, when they were met by the chief magistrate and ordered to retire. They did so, but again turned and fired; and more fell. There was a sort of short war between them and the civic authorities, before they ceased from their butchery. There was some contradiction in the evidence. It did not appear whether the captain had said 'with ball cartridge, prime and load,' as stated by some, or as by others, 'with cartridge, prime and load,' and the serjeants and their respective proceedings were not very exactly identified. The prisoners were acquitted, the two officers being found 'not guilty,' the accusation as respected the serjeants 'not proven.' The verdict was probably a just one, but the public did not excuse the Lord Advocate. Murder had been committed, and the public was entitled to every information which could be obtained, to know who were the guilty, and likewise who were not the guilty. But there is reason to believe that one man escaped through the negligence of the public prosecutor, from the punishment of his crimes. He appears to have been the most active person in the affair; he fled, forfeited his bail bond, and was outlawed. He had probably good reasons for what he did. The individual who was Lord Advocate, at that period, has since been a judge, and on the Bench has been respected by all parties for his integrity and legal knowledge; yet few hesitated at the time to declare, that as the representative of ministers in Scotland, he had thought it not at all for his Majesty's benefit, that gentlemen who had served in Ireland should be brought into trouble for spilling a little swinish blood. It must depend upon the political circumstances of the times, whether the finding of a bill by a grand jury, or the serving of an indictment by the Lord Advocate, is the more prejudicial to the cause of the prisoner,—in the general case, probably the former;—but the circumstance of a Lord Advocate's not prosecuting, has been considered so far favourable to the accused, that it was made use of as an argument by Mr Harry Erskine (brother to the chancellor), counsel in the case just mentioned,

A case occurred in the year 1819, of theft, to the amount of 20,000*l.*, in which the Lord Advocate declined to prosecute, until after the private parties had made good their claim in a civil court. There are other methods fruitful and many, in which the crown counsel may neglect or pervert his duty. Where a man has committed many atrocious crimes, the crown counsel may lay his indictment on a small portion of them, and satisfy public clamour by a slight punishment; or *vice versâ*, he may aggravate the crime of which a man is accused, so that the magistrate may be compelled to refuse bail, which he cannot admit where the crime is by law capital, without the permission of the prosecutor. The thing was done some years ago, and for a political purpose, but it fortunately received such notice at the period as may prevent it from being repeated for some time to come.

When the prosecutor has brought the accused before the court, a peculiar judicial power is vested in him, which is of serious consequence. It is generally understood that the Scotch Criminal Law is much less sanguinary than that of England; but it might be more truly said, that in this quality there is a glorious emulation between them. The apparent distinction is grounded on this circumstance, that the mitigation of punishment in England comes from the crown after death is recorded, in Scotland from the Lord Advocate before sentence. This power is allowed to him only in capital cases. His exercise of it is termed 'restricting the libel,' and the effect is to limit the court to the infliction of what is very appropriately termed 'an arbitrary punishment,' meaning anything the judges please, from fine to transportation for life. A return lately made to the House of Commons shows the vast extent of this power. In 1827, of 230 capital cases, restriction was made in 205. The proportions of later years were respectively as 272 and 252; 272 and 255; 265 and 244; 381 and 344. This power is of most extensive service in obtaining confessions, and so saving official time. When the accusation is of so grave a nature that death may be contemplated as the probable event, an amicable discussion takes place between the counsel for the king and the counsel for the prisoner, in which it is the aim of each to strike the best bargain he can. If the official gentleman is indolent, or is afraid to trust his case with a jury, an intelligent counsel on the other side may be enabled to make a very advantageous bargain for his client. Perhaps, if he is accused of three or four different capital crimes, all but one may be departed from, and the libel is that one restricted; so that a few months imprisonment is awarded to the man who firmly believed that death was to have been his lot. But an active and fearless crown counsel may be

a very different person to deal with. To say that this species of bribery, intimidation, or whatever it may be termed, had ever prompted an unfortunate being to confess guilt under a threat of death, when hearing the words—‘only plead guilty, and I’ll restrict,’—might be a rash assertion; but certainly the circumstance is not improbable.

In a summary of the powers of this officer, it would be improper to omit the circumstance, that no law known in Scotland can make him responsible to an individual whom he has injured. A man may be dragged from his family and fettered among criminals, and be released after a time without a trial by his country, and there is no law to bring his persecutor to justice. In accordance with the splendid theory of Blackstone the king is too great a man either to give or to sue for legal expenses;—and the man either dismissed untried, or acquitted, has no claim for the punishment of his oppressor, or for repayment of the expense which a false charge has occasioned to him. But it is just to the Scotch system to observe, that the theory of Blackstone is not recognized in its fullest extent. The Procurator Fiscal pursuing before the lower court, does so at the risk of damages and expenses; and it is only when a man is accused of a crime worthy of the consideration of a higher tribunal, that false accusation and the invasion of liberty pass unpunished*. There is indeed an old law which bears that the informant of the prosecutor may be made liable in damages, where there has been a malicious prosecution; but the framers of the law carefully avoided any provision for discovering the informant†. Nor, though the prosecutor were obliged to name

* See for a discussion on the propriety of making public prosecutors liable in damages, ‘Observations sur plusieurs points importants de notre Législation Criminelle. Par M. Dupin. 289.

† *William Scott*, cross-examined by Mr. Margarot.

By virtue of what authority did you employ Lyon, the messenger, to arrest me?—By virtue of the warrant which I had obtained from the Sheriff of Edinburgh, as Procurator Fiscal.

Was that warrant granted at your requisition?—It was.

Now, answer me seriously one question;—from whom did you receive the order to apply for that requisition?—That certainly has not any connection with the present business, and I think I am not bound to answer that question.

It has, Sir, and you must answer it as you appear before God at the great day. [The witness hesitated.]

Mr. Margarot.—My Lord, I must have the protection of the court.

Lord Justice Clerk.—I do not think it is proper, that he should tell who gave the information.

Lord Abercromby.—I am of the same opinion.

Lord Eshgrove.—He acted as Procurator Fiscal of Edinburgh, and,

him, would justice be assisted by making some officious citizen, who thought that all was not right and that the public authorities ought to be aware of his suspicions, liable for what those public authorities may do in consequence. In France, the denouncer, as he is termed, must sign the accusation along with the Procureur du Roi*, and the right to prosecute him for damages is clearly defined; but a prudent man always finds it convenient to shield himself by making a '*révélation*,' and declining to take the responsibility of a denunciation†.

So much for the powers put into the hands of the Lord Advocate by the law; but it seems that this official sometimes feels that he is called on to act without law. Had he been punished when he did so, the subject would have been an idle one for inquiry; but the ignorance of what are his real powers, and the influence of one under authority, have on some occasions enabled him to transgress the laws without resistance, and to exult in his success. A few paragraphs from the Parliamentary Debates tell the tale from the mouth of the best authority on the subject, the Lord Advocate himself. The Act for the defence of the country by Volunteers, contained no provision for annulling contracts which might interfere with the military person bound by them. The servant of a respectable farmer had joined the Volunteers, and preferring the parade to the work he was directed to do, was dismissed from his employment. Knowing the person to whom to apply, he requested the opinion of the Lord Advocate as a lawyer on his right to compensation. That gentleman wrote a letter to the sheriff-substitute of the county, and the sheriff prudently recorded it in the books of his court. It ran thus;—

'Sir.—I return you the memorial with my opinion: and in the circumstances of the case, I decline taking any fee, which I also return to you. The case in the memorial is one of those for which, unfortunately, no provision is made in any of the Volunteer Acts, and, therefore, of course, a person who neglects his master's work, on account of attending drills or reviews, is, I am afraid, in the same situation with a servant doing so from any other cause. The conduct of Morison [the master] however, is most atrocious, and every possible means ought to be taken to stigmatize him, and to punish him by the scorn and contempt of all the respectable men in the county, who ought to enter into a resolution to have no communication or dealing with him whatever. And farther, as I consider that Morison's conduct

therefore, he is no more liable, or bound, to say who was his private informer, than my Lord Advocate is.—St. Tr. xxiii. 636.

* Alletiez, Dict. de Police Moderne, iii. 452.

† *Leçons Préliminaires sur le Code Pénale, &c. Par M. Bavoux. 623.*

can only have arisen from a secret spirit of disaffection and disloyalty, it is my orders to you, as sheriff-substitute of the county, that on the first Frenchman landing in Scotland, you do immediately apprehend and secure Morison as a suspected person; and you will not liberate him without a communication with me; and you may inform him of these my orders; and, farther, that I shall do all I can to prevent him from receiving any compensation for any part of his property which may be either destroyed by the enemy, or by the king's troops to prevent it from falling into the enemy's hands*.

This was bold and decided in its way, nor less so was the learned Lord's defence before a 'constitutional parliament;' it is long, and a portion of it, almost unmatched in candour, is all that can be here extracted.

'Cases do occur when nothing but responsibility can enable a Lord Advocate of Scotland firmly and honestly to perform his duty to the public. In the American war a noble lord who then filled the situation (Lord Melville), acted on one occasion on this principle, in a way that did him the highest honour. The instance to which I allude, was the case of several vessels about to sail from Greenock and Port Patrick to New York and Boston. If these vessels had been permitted to sail, the consequence would have been, that a number of British subjects would have been totally lost to this country. What then did the noble lord do under these circumstances? He did precisely that which his public duty imperiously required of him. He incurred a grand responsibility; immediately sent orders to the custom-house officers of the ports from which the vessels were to sail, and had them all embargoed. Thus, by incurring responsibility, an important public object was obtained, though the act in itself was not strictly legal. Another case, which is also strongly in point. It so happened, that he received intelligence that a letter would be sent from the post-office at Perth, and would reach Edinburgh on a particular day. In this case, if legal forms had been adhered to, an order from the Secretary of State's office must have been obtained before the letter could be stopped. But what had his hon. friend done at such a crisis? He felt that he must and ought to stand on his responsibility. He did follow this course. He intercepted the letter, and from the information it contained, he was enabled to detect and bring Watt the traitor to condign punishment. In my own experience I have also felt it my duty to stand on my responsibility, when it appeared to me, that the public service is interested. Information reached me that several vessels were about to sail from ports in the West of Scotland, with a number of emigrants on board, bound to America, and that the amount of provision was not much more than one-third of what was necessary to provide for even an ordinary voyage. Here I did not hesitate a moment, but immediately, by orders to the custom-house officers, had them embargoed, till a proper supply of provision was obtained. The

action was not strictly legal, but my own sense of public duty represented to me the necessity of resorting to it and awaiting the consequences. No fault was found with my conduct, and if I had thought that it would have been blamed, I could only have come to this House for an Act of Indemnity. I felt it my duty to act on the same principles in July last, when the insurrection broke out in Dublin. At that time I was apprised that numbers of Irishmen were arriving at Port Patrick from Ireland. I naturally supposed, as was the case, a bill would pass, enabling the Irish government to prevent any person leaving Ireland without a passport. There was no similar law against their reception here; but, acting on the principle, that this Act was meant to be reciprocal, I immediately sent orders to prevent any person but women and children from landing in any port in the kingdom, without a passport, and those who had no passport, I immediately ordered to be sent back again to Ireland. Here, to be sure, I did not act in conformity to the strict letter of the law. Carrying the matter to strict interpretation, an action of false imprisonment would, perhaps, have lain against me. But I should have been ashamed of myself if, from an apprehension of any such consequences, I had at all dreaded to encounter responsibility, or to answer for my conduct with my head*.

These are the men who are in the act of coming in upon us again.

The doctrine, that when the laws are broken, the more extensive the infraction the more justice is done, is not so modern as it is supposed. The learned lord was not very strongly supported by his ministerial friends. One of them said, that 'at this peculiar crisis, and fired with an ardent zeal for the support of the Volunteer service, it was not to be expected that in a moment of warmth he should precisely keep his temper on such a subject, and in all respects be perfectly cold, correct, and accurate.' Others said, he could not be made responsible for what was in reality a mere threat which he could not have executed; and even his legal brother in office, the Attorney-General of England, could only summon enough of unconstitutionality to maintain that the injured party should have prosecuted [got the Lord Advocate's consent to a prosecution against himself], and that parliament was not the place for discussing the matter. However, they managed a majority of seventy-seven, and a vote of censure was lost.

To return from this digression to the ordinary criminal prosecution. The accused has privileges in Scotland, which are denied to him in England. He receives a copy of the indictment, with a statement of the facts, and the names of the witnesses and of the array of jurors, fourteen days before the day

of trial. The witnesses are examined separately, and the accused has, in every case, the benefit of counsel, who are entitled to address the jury after the crown. A very old Act humanely entitles the poor to the assistance of counsel gratis, and it is to be regretted that it does not extend to the provision of a fund for paying the cost of witnesses coming from a distance. About nine-tenths of the persons tried in Scotland take the benefit of the privilege, and consequently the criminal court becomes an arena in which the young barristers expand the buds of their oratory. They are seldom scrupulous in making attacks on the common sense of the jury, and are generally prepared to maintain any doctrine of evidence which may have the merit of being highly original. It is probably owing to this circumstance, that the court, which in England is understood to be counsel for the prisoner, may in Scotland be as correctly understood to be a relay of counsel for the crown. There are exceptions, but in most instances the judge considers it his duty to pull the arguments of the 'learned gentleman at the bar' to pieces in the most effectual manner. He becomes fired with indignation as he proceeds, at the audacity of the criminal, and the verdict often depends on the judge's talent as a pleader, which is fortunately not always high. This evil has been severely felt in France.—

'A recapitulation ought to be an impartial exposition of the charges against the prisoner, and of his grounds of defence; but is it in fact so? Unhappily, we are forced to acknowledge, that it is but too often a tissue of fresh arguments against the prisoner, the extravagance of whose counsel sometimes, it is true, reduces the president to this sad necessity; but it often happens, that the resentment which he himself has retained during the course of the trial, acts involuntarily on his mind, and induces him, without his suspecting it, to insist more forcibly on the proofs of guilt, than on the arguments urged by the prisoner in his favour.'

It has been known as a familiar phrase in Scotland, that a judge 'has ceased to get verdicts,' because his habits of special pleading had lost to him the confidence of juries; and in such case the general course has been, for the judge to insult each jury acquitting in opposition to his instructions. In some other matters connected with the question of his guilt or innocence, the prisoner is pretty fairly dealt with; the rules of evidence are strict, two witnesses are always requisite for conviction, and the trial is seldom conducted with indecent expedition. But the constitution of the supreme criminal court, allows much arbitrary latitude on the part of the judges,—latitude which admits the play of all the evil passions, is extensive on the side of permission to do evil, but is to a certain extent closed

against the power of doing good, and would require to be wielded by minds more than human in ability and benevolence. Consider only the weakness of the court in doing good. While a civil cause may be brought through five or six courses of appeal, where life is at stake a single court decides at once, and irrevocably. In Scotland this takes place not only as to matters of fact, but as to matters of law. If a legal objection is discovered before the case goes to the jury, the trial may be delayed; but the rule that a man shall not be twice tried for the same offence, is adhered to so strictly against the prisoner, that after the jury has been sworn, no legal point occurring can be the subject of delay, or review, either by a court of appeal, or the judiciary court itself. When a question does occur, therefore, during trial, the court must either decide it at the moment, or leave it undecided. The latter course is frequently followed, and here the prisoner has a decided advantage. Thus, the other day, a man was tried as the receiver of stolen goods; the evidence turned on a police trick, a boy who was in the habit of selling him stolen articles, having been sent to him by a policeman to try if he would purchase some stolen plate. The question was started, whether this was properly 'reset of theft.' The united wisdom of the bench was insufficient for the decision of so nice a point in ethics, and the court requested the public prosecutor to give up the case; so the man was released, and the court, it is presumed, are still arguing this point, that they may be able to decide it when brought before them again some twenty years hence. The extensive power of the court to do injustice, is a subject as endless as the variety of methods by which men 'dressed in a little brief authority' can play their tricks against high heaven. They are all united in supporting what is termed the 'native vigour of the law,' its power of punishing anything which the court chuses to call an offence, by any punishment which it chuses to inflict short of death. In ordinary crimes, the court in the variety of its punishments, must have some apparent reason for punishing one man more than another. These reasons are generally found in aggravations of the simple crime. Previous conviction is one of these. It would certainly be an unobjectionable one were the punishment of it established by a code, and were the convictions (which are generally before police courts and the like) less carelessly obtained. A very curious aggravation of theft is 'being habit and repute a thief.' By the old law, common fame was sufficient to convict a man of any crime; by the improved practice of modern times it only convicts him of a second crime, after a primary one is otherwise proved. Observe, the person is not 'habit and

repute a thief' because he is accused of having committed thefts, but because he is accused of having the reputation of being a thief by his neighbours, any two of whom swearing to the reports of his bad character, convict him of the aggravation. It is needless to remark, that the circumstance must weigh with any inconsiderate jury as affecting the evidence of a primary charge. Being rich or poor, well educated or ill educated, young or old, may be aggravations. In the case of Muir, the cheers bestowed by the people in the court on his defence constituted an aggravation. 'The Lord Justice Clerk observed, that the indecent applause which was given the panel last night, convinced him, that a spirit of discontent still lurked in the minds of the people, and that it will be dangerous to allow him to remain in this country. His Lordship said this circumstance had no little weight with him, when considering of the punishment Mr. Muir deserved*.'

Once again, these are the people that are coming back upon us. How much better would it be to die in the field or on the scaffold, if there was not another way of resisting that will do the business more effectually.

Standing trial, and so detaining the court, is a great aggravation. A short time ago, two women were brought to trial, accused of an extensive act of theft. They were mistress and servant. The former had taken a house, in which some trunks containing clothes and jewels of great value had been carelessly deposited. It was the first business of the woman, who probably took the house for the very purpose, to get these chests broken open, and the goods distributed among some relations and friends, or pawned, or sold. For these objects she required assistance, and procured for a small recompense, the help of the other prisoner, who had a starving family. This woman gave her aid, and received in return some few shillings-worth of the goods. She was thus guilty in law, but she thought she might escape and stood a trial; she was found guilty 'art and part,'—a finding somewhat stronger than accession, and involving aiding and abetting. The mistress pleaded guilty, as principal. Both received the same punishment,—transportation for fourteen years. The length of the trial made the court a little indiscreet, and the poor servant was told, that her high punishment was owing to her imprudence in standing trial. This case was represented to the Secretary of State, and the sentence commuted to a limited residence in the Penitentiary. The right to punish for standing trial, is not mentioned in the

* State Trials, xxiii. 236.

Scotch law books*. It would certainly be better for society, if thieves would all plead guilty; but it must be questionable, whether the denial of a crime ought to be visited with a punishment as high as that awarded for the crime itself.

But this subject cannot be better illustrated, than by turning to a dark period of history, in which the powers of the Scotch courts were used as instruments for crushing reform. Whether viewing the brutal insults heaped on the heads of intelligent and thinking men, the cold mockery with which all appeal to something like legal grounds for their actions was received by those exercising the power, or the exultation at the sufferings of opponents displayed in the punishments, the whole of the narrative of these proceedings appears more like a half-authenticated history of barbarous antiquity, than anything that can have been witnessed by people who now live, and were witnesses to it all. But they are specimens of the natural consequence of putting power into the hands of men who are regulated, not by a principle, but by the circumstances of the subject on which it is to be exercised. The whole course of proceedings and of opinions expressed, shows the feeling, not of those who punished criminals, but of those who triumphed over political opponents, and made a bold effort to crush the progress of improvements which could only take place at the expense of people in power. The attempt succeeded for a short time, but the spirit of improvement retired only to recruit itself, and is coming forward daily with new strength. When it was maintained by Muir that the measures by which he sought alteration were respectful and peaceable,—viz. by merely petitioning; ‘Mr. Muir,’ said Lord Justice Clerk, ‘might have known that no attention could be paid to such a rabble. What right had they to representation? He could have told them, that the Parliament would never listen to their petition. How could they think of it? A government in every country should be just like a corporation; and in this country it is made up of the landed interest, which alone has a right to be represented; as for the rabble, who have nothing but personal property, what hold has the nation of them? What security for the payment of their taxes? They may pack up all their property on their backs, and leave the country in the twinkling of an eye, but landed property cannot be removed.’ ‘He said,’ observed the prosecutor, ‘that their taxes would be less if they were more equally

* It is right to mention, that one, at least, of the judges of the Justiciary Court is understood to hold the opinion, that while early confession should be an alleviation, obstinacy should not be an aggravation.

represented; and that from the flourishing state of France, they could not bring their goods to market so cheap as Frenchmen. *What could possibly be more calculated to produce discontent and sedition?* Lord Eskgrove, in Palmer's case, held, that there was a right in the subject to petition 'properly,' but if any one 'shall think proper to call meetings, and collect together mechanics, and those whose education and circumstances do not entitle or qualify them to judge of matters of legislation,—people ignorant altogether of the very grievances which they are told they are loaded with, till they are assembled and taught that they are in a state of oppression,—the case is exceedingly different.' 'Gentlemen,' observed Lord Abercrombie in the same case, 'the right of universal suffrage is a right which the subjects of this country never enjoyed, and were they to enjoy it, they would not long enjoy either liberty or a free constitution. You will therefore consider, whether telling the people that they have a just right to what would unquestionably be tantamount to a total subversion of this constitution, is such a writing as any person is entitled to compose, to print, and to publish*.' Again, Lord Swinton said in the case of Gerrald, 'I maintain that it is not only inconsistent with the British constitution, but inconsistent with any constitution of government that ever did exist or ever can exist, that every mortal who has arms, and legs, and head (and we are all equal,—all of like passions and like judgments with one another), that every one of them shall have equal suffrage—In what? Not only in the election of legislators, but of magistrates, of ministers [clergymen], and of judges too. Universal suffrage, according to their meaning, is a suffrage to re-judge what judges may do; also to judge whether they will obey an Act of Parliament or not, and whether the Acts of these Annual Parliaments are agreeable to their mind or not. I will tell you what, Annual Parliaments are inconsistent with any government at all, because if these Parliaments should pass an Act which these universal suffragants disliked, they have a right from nature to meet and say, this is a wrong Act;—we did chuse these people, but they have gone contrary to our universal suffrage, and we have a right to re-judge them, and overturn what they have done. And I will give it you in the prisoner's own words; if it be true as charged in the libel, in his supposed speech, "If you appoint a man to act as your agent, and make his situation such that he has every temptation to betray you, without incurring the danger of being called to an account, the probability is, that he will sacrifice

* Trials, xxiii, 231.

your interest to his own. It is therefore that a free suffrage of the people is what every man ought to desire, as that alone can make the interest of the representative and his constituents the same." Now mark this, "The great art of government, I apprehend, is this, that all should be governed by all." That is to say, that the whole of the suffragants, the whole voters, shall be governed by the whole voters. What is this but saying, that the mob shall be governed by the mob, the multitude shall be governed by the multitude? Who would be chose a judge by such governors? Because they would re-judge him*.' His Lordship had naturally some dread of such a consummation. Such was the spirit in which the judges proceeded to make any act they pleased a crime.

Once more, these are the people who are coming back upon us, with a lie in their mouths, and sheep's clothing on their wolf's backs. The one question to ask every man is, Will you help yourself or not?

An indictment in Scotland is a sort of syllogism. It commences with stating, that something or other is a punishable crime, then that the accused has committed that crime, and concludes that he ought to be punished. Suppose the case to be one of theft. The major proposition will state, that theft is a crime severely punishable, a truth which few will deny. The minor proposition may then state, that a theft has been committed, in so far as on the third day of August last, in the shop of B in the village of C, the said A put his hand into the till of the said B, and took therefrom five shillings in silver. The conclusion is, that these circumstances being proved, A should be punished. This narrative is submitted to the judge, who decides first whether there has been such a crime as theft, and then whether the narrative stated amounts to the commission of the crime. Thus if the narrative bore that A borrowed the money from B and would not return it, as this would not be theft, it would be so decided by the judge, and the case would not go to the jury. When the judge finds the indictment correct, he intimates it to be so by an interlocutor of relevancy. It is evident that in a matter of simple theft, such interlocutor, if useless, can do no harm. But in political crimes it is different; sedition may be pronounced a crime severely punishable, and A may be said to have committed sedition, in as far as he attended a meeting to petition for the ballot. It is true, the jury since the year 1723 have maintained the right to give a general verdict of guilty or not guilty; but they have not always used the privilege, and their verdict is

on all occasions prejudged by the Court, to whose legal opinion, if they do not wish to exercise the dreaded power of re-judging judges, they may find it proper to submit. Sedition does not exist as a crime by the law of Scotland, except in so far as the judges have the opportunity to call anything a crime, and so have called something by that name. But being so declared, legal writers were obliged to define it, and the united efforts of their powers of defining will show how happy is that ministry whose judges can make their own laws. Sir George M'Kenzie says, 'Sedition is a commotion of the people without authority, and if it be such as tends to the disturbing of the government, *ad exitum principis vel senatorum ejus, et mutationem reipublicæ*, it is treason, but if it only be raised on any private account, it is not properly called treason; but it is with us called a convocation of the lieges*.' Another says, 'Sedition is an irregular commotion of the people, or convocation of a number of citizens without lawful authority, tending to disturb the peace and order of society. It is of different kinds; some seditions do more immediately threaten the supreme power, and the subversion of the present constitution of the state; others tend only towards the redress of great grievances†.' These are from law books written previously to the celebrated Sedition Trials of the last century, and the principles contained in them are founded on the data of previous decisions, and some old Acts of Parliament passed on those occasions when the royal power was in danger from aristocratic inroads. The oracles of the law were not prepared for all that future Courts might find it expedient to hold to be sedition, and the later dispensers of legal wisdom have given interpretations of this term somewhat different. 'Whatever tends,' says a writer of the year 1809, 'to unsettle the established order of government, by producing discontent in the minds of the people; lessening the sovereign in the estimation of his people; or in general exciting a spirit of disloyalty to the King, and disaffection to the established government, is sedition, though there be no commotion, tumult, or rising of the people‡.' Mr. Baron Hume says, 'I shall not attempt any farther to describe it (being of so various and comprehensive a nature) than by saying, that it reaches all those practices, whether by deed, word, or writing, or of whatsoever kind, which are suited and intended to disturb the tranquillity

* Laws and Customs, &c. T. 7.

† Baynes's Hist. of Criminal Law. II.

‡ Burnett's Criminal Law. 239.

of the state,—for the purpose of producing public trouble or commotion, and moving his Majesty's subjects to the dislike, resistance, or subversion, of the established government and laws, or settled frame and order of things*.' Here is a pretty wide field for the interpretation of the law; and if it should ever be found convenient to decide, that writings urging vote by ballot, or the abolition of a tax on bread, are seditious writings, these two aspects of the offence will be added to the list by the next commentator. The trials for sedition were the data from which these principles were derived. Accordingly it is seen that in the case of Muir, the interlocutor of relevancy having found sedition to be a punishable crime, settled that the prisoner had committed that crime, in as far as he had joined '*a society for reform,*' where he made speeches in which he did '*seditiously endeavour to represent the government of this country as oppressive and tyrannical, and the legislative body of the state as venal and corrupt;*' he had advised his relation Mr. John Muir and others to buy Paine's Rights of Man, he had lent to some one '*Volney's Dialogue between the Governors and the Governed,*' and had read to '*the convention of Delegates to the associated friends of the people*' Mr. Hamilton Rowan's '*Address from the Society of United Irishmen in Dublin, to the Delegates for promoting a Reform in Scotland.*' From the temper of the quotations made above, the principles on which the interlocutor of relevancy was granted will be easily decided. In each case it was prefaced by a legislative speech against reform, and the danger of the times; in other words the necessity for the friends of old abuses making a desperate struggle. The circumstances stated in the indictments were proved, or nearly so; the jury were certainly entitled to say '*not guilty,*' but had they done so, they would have contradicted the previous decision of the Court, which by the interlocutor of relevancy said '*guilty provided what is asserted is proved,*' and jurymen are sometimes loth to contradict judges. In one case in which the jury left it to them, the Court arrogated the right to judge of what is termed the law. In the case of Berry and Robertson the jury '*all in one voice found it proven, that the said James Robertson did print and publish, and that the said Walter Berry did publish only, the pamphlet libelled on †.*' On this the Court awarded the prisoners *confinement* in jail for six and three months respectively. This was beyond the genius of Mansfield. This trial took place just after the Act 32 Geo. III. c. 60, for enabling

* Commentary on the Criminal Law. I. 553.

† State Trials xxiii. 118-24. Ib. 90.

English juries in cases of libel to judge of the law along with the fact, the case of Woodfall was referred to, but it was observed that the Court of Justiciary cannot grant new trials, and if the verdict of the jury were doubtful, the Crown's was the safer side to err on.

The second means of obtaining their end, was the application of any punishment they thought proper. Several sentences had been pronounced, before the ingenuity of counsel discovered any reason why transportation for fourteen years should not be awarded for sedition. Mr. Eiskine, Mr. Malcolm Laing the historian, Mr. Adam Gillies, and in parliament, Mr. Adam, made accurate investigations as to the origin of punishment for sedition. If the speeches of the counsel were delivered with the view of altering the determination of the court, they certainly acted with something like simplicity. The court, however, heard them, and, certainly, considering the circumstances, with much patience, even condescending to hunt for arguments to justify what every one knew they were entitled to do without reason. The outline of Mr. Gillies's arguments ran thus. The crime of which the prisoner was accused was by the old law on some occasions termed 'leasing-making,' on others, when a bloody statute was required by the crown, it was raised to the rank of treason. But all the statutes passed at particular occasions and for the purpose of applying to particular circumstances, were repealed by the Act of 1703, which, on the narrative that they had been the means 'of causing pursue and forfeit persons upon *stretch*s of old and obsolete laws, and upon frivolous and weak pretences,' enacted, that the crime should be punished 'by fining, imprisonment, or banishment.' The next branch of the argument was, that 'banishment' does not include transportation, and by the old law of Scotland never could have been meant to include it, as the Scotch had no colonies over which a jurisdiction could be exercised. This might have been startling logic to some men, but it fell harmless on the heads of the Scotch judges. The diligence of his Majesty's Advocate enabled him to find a precedent,—a case in which the Privy Council had transported a man in the year 1804. Mr. Laing answered, that in that case all the three punishments had been given at once, with transportation to boot,—that the case was one of illegal punishment—(he should have known that this made it so much the better a precedent). The learned judges also busied themselves, and found instances enough for a dozen romances, in which men had been carried out of the country, and put into the hands of other powers, both by the Court and the Privy Council. They might, if they had thought proper,

have discovered as many instances in which men were secretly put to death by the same authorities. The judges had each his own method of answering the argument. Some of them maintained that the instances proved were quite sufficient to show, that transportation was included in the term banishment, and probably must have felt that they had acted by the guidance of a kind Providence, when they bestowed that punishment on Muir and Palmer, previously to any light being thrown on the matter by investigation. Lord Justice Clerk said, 'But sedition is no statutory crime. It is coeval with the existence of society itself; is cognizable by the common law of almost every state; indeed it is a crime which right reason as well as law must concur in reprobating and punishing.' See how people justifying iniquity, derive their reasons from what they do, not what they do from reason. 'We all know,' said Lord Abercrombie, 'that the manners of a people cannot be stationary. New manners give birth to new crimes. In some countries doubts may arise in what way, and by what law such new crimes are to be punished,—whether they require a special enactment, or are to be punished by the common law of the country. In Scotland no such doubt can arise, because the supreme Criminal Court here always has been understood as possessed of an inherent and radical jurisdiction to punish every offence that can be denominated a crime, upon the principles of sound reason and morality.' This certainly was the most conclusive argument used on the occasion; an intimation that the Court could do as it thought proper. It effectually closed the mouths of counsel, who could set up no standard to determine when the court was acting contrary to 'sound reason and morality.'

It would be tedious to follow the judges and prosecutor through their various petty modes of obtaining their end,—as, for instance, how no proof of malice could be received against the witnesses for the prosecution, while those for the prisoners were disqualified on the slightest grounds;—how the court first packed the jury, and then overawed them. 'What then,' said Muir, perceiving the inducements for all this, 'has been my crime? Not the lending to a relation a copy of Mr. Paine's works; not the giving away to another a few numbers of an innocent and constitutional publication; but for having dared to be, according to the measure of my feeble abilities, a strenuous and active advocate for an equal representation of the people, in the House of the people;—for having dared to attempt to accomplish a measure by legal means, which was to diminish the weight of their taxes, and put an end to the profusion of their blood.'

These men are coming upon us again, with oily faces, and tongues dropping for the present with butter and honey. The time is come, for the spirit of martyrdom to shake hands with the spirit of not being made fools of. There are recollections about Scotland, which lead to the expectation, that on neither of these points will she to any great extent be found deficient.

ART. VIII.—*England and the English.* By Edward Lytton Bulwer, Esq. M.P. Third Edition.—London; Bentley. 1834.

WHEN a writer who has done good service to the public by his eloquent advocacy of popular interests, broaches a doctrine hostile to them, it becomes the duty of his fellows in the same walk to enter their protest against his conclusions. This is the more necessary when the authority acquired by previous labour of love on behalf of Radicalism, is such as must be conceded to the author of ‘*England and the English.*’

In the recent edition of that work there occurs the following passage, which is going the round of the Press with a laudatory preface.—

‘Endowments raise (as the philosopher *should* be raised) the lofty and investigating scholar above the necessity of humbling his intellect in order to earn his bread—they give him up to the serene meditation from which he distils the essence of the diviner—nay, even the more useful but hitherto undiscovered—wisdom. * * * It is possible that endowments favour many drones—granted—but if they produce one great philosopher, whose mind would otherwise have been bowed to lower spheres, that advantage counterbalances a thousand drones. How many sluggards will counterpoise an Adam Smith? “If you form but a handful of wise men,” said the great Julian, “you do more for the world than many kings can do.” And if it be true that he who has planted a blade of corn in the spot which was barren before is a benefactor to his species; what shall we not pardon to a system by which a nobler labourer is enabled to plant in the human mind an idea which was unknown to it till then?”—*England and the English.* 3rd Ed. p. 237.

The writer here misconceives the result. The question is not whether endowments tend to make more drones than wise men; but whether they do not also tend to make wise men drones. It seldom happens that a man of real merit, fails in the end to make his way to eminence; and the strugglings which Mr. Bulwer appears to regard as drawbacks to his success, are the very means by which that success is created. The contemplative wisdom which he admires so much, is generally of very little use by itself, and leads rather to vain conceits and impracticable theorizing, than to practical wisdom. Such was

much of the wisdom of the ancient philosophers, and the monks. The true wisdom is that which men, like bees, gain from their actual experiences in life. Place them out of life, and they would lack the means of being wise. Remove them from trials, and their knowledge of human nature, which is but a knowledge of themselves and others in different positions, could never be acquired. Rousseau, Byron, Shakspeare, Milton, Bacon, Bentham, and every other man who has been great, and whose wisdom has instructed the world, have been men of the world, whose practices and experiences have ripened and enriched their genius. A perfectly wise man,—that is, one who has all wisdom, in every walk of knowledge and mental power and moral sentiment,—is a physical and moral impossibility. The depth and energy of character which make a man great in any one walk, often render him peculiarly unfit for any other walk; and that depth and energy are deepened and enlarged and animated by the opportunities, the excitements, and the obstructions, created by limited means and an apparently confined sphere. Take away the stimulus that want everywhere supplies, and there would not be motion, except in a few minds endowed with rare energies and trained habits of application; and even then these minds would be like unploughed fields, the seed would grow indeed if the land were rich and unexhausted, but otherwise there would be little exertion. It is one thing for a man to sow and wait and reap the harvest, and another to mow the growth of rich meadows which lie before him. Hence men of talent whose means are independent, are more remarkable for taste than research; for elegance of expression, than deep thought. What cases to the contrary exist, are where men have in youth ploughed the mind, endured many sufferings, visited many lands, enjoyed an extensive observation of men and things in the actual business of life, and therewith acquired habits of laborious application. Such men, when more fortunate circumstances have come to them, have not abandoned their pursuits; and independence of means, like fair weather in harvest time, has enabled them to reap the fruits of the care of early life.

This leads to the distinction between the cases fit for endowments and the cases unfit. When a man has arrived at mature life, and discovered peculiar excellencies trained and ingrained, then endowments may be given rather as a reward for the past. But the cases to which they are to be applied, should depend on the extent and certainty of the public usefulness of such attainments. The wisdom to which Mr. Bulwer seems to refer, is after all a narrow range of talent, compared with the vast field of mental power and ingenuity which

the world presents. It is moreover that which is likely to be most common in an age of general intellectual refinement, and therefore to need less encouragement. And it is still less necessary now that printing, and periodical publications, enable almost every man to convey to all the world besides, his modicum of experience. There are, however, pursuits which require great labour, and even great cost, for a series of years, works of art, inventions, literary undertakings, whose sale cannot indemnify the author in a long course of time, though highly important, and even necessary, such works require peculiar reward. But seldom do endowments follow *them*. The other day, the government of this country paid meagrely the cost of Babbage's calculating machine. If they had been State services, the statesmen would have exclaimed against the impropriety of accepting such services without rewarding the giver, in spite even of disinclination or refusal to receive recompense. Though judging from the way in which matters of this sort have been hitherto managed, it may be doubted whether the power of rewarding should be given to the general government, there can be no doubt that it is its duty to remove obstructions. The Taxes on Knowledge, the Law of Patents, the Law of Copyright, all the institutions that make wealth the standard of qualification for the office of magistrate, of juryman, and other posts, are appearances of this nature. So are the restrictions on men going to the bar, or becoming attorneys. Think of the absurdity of making the learned Johnson, who at a comparatively late period of his life thought of going to the bar, wade through five years of eating terms,—a man who would have demolished by a breath, or a growl, the small witticisms and feeble sophistries of the mere technical or voluble lawyer. But it is to prevent the ingress of such men, that the barriers are raised.

In an early stage of society, there may be a policy in endowments, they may be useful in giving a start to talent in a peculiar direction, and at first the appointment is usually well filled, and its duties faithfully executed. But experience shows that when the sensation first created has worn off, the appointment becomes a mere sinecure, except in a few rare cases of singular conscientiousness on the part of men of true genius. All therefore of Mr. Bulwer's reasoning may be answered by a reference to what has been. He refers, however, to Adam Smith, whose preaching and example are alike adverse to his views. The Scotch professorships are no endowments in the ordinary sense of the term. Their emoluments depend upon their success;—upon the number of scholars who are attracted to them. But even

the Scotch schools have sometimes been filled by unfit men. This has arisen from the manner of the appointment. Instead of being elected by the scholars of the school, or the learned men of the day, they are appointed by Town Councils and the Crown, that is, by the Home Secretary; and it is unnecessary to say what room and practice of jobbing there is. Professorships, as Dr. Smith ably argued, by giving the professor the opportunity of going over and over again the same ground, and compelling him to do so in order to keep up with the increase of knowledge in his department, afford the means to a fit man of mastering completely his subject. Let there be schools for every species of learning, and along with such schools professors; and there will not need to be other endowments. Let them be paid as the professors of the London University are, partly by fees and partly by endowment, in proportions regulated by the more or less popular character of the instruction. There would however be a still better method, in a case where the election was with the body of the professors; which would be to make up the endowments of the professor in this way,—one half of the fees brought by the pupils to be enjoyed by himself, and the other half to be divided equally among all the professors. This would give each professor a motive to select the best excellence for the vacant professorship, and thus secure the best excellence for the whole. This would apply to scientific, professional, and artist talent of all kinds. The wisdom of the world will be taught by the combined aid of the writers of books, and of periodical publications. There the public will chuse the best professors; and that they may do so, remove the fiscal and legal trammels that weigh down the exertions of the whole.

Nothing has been here said of church endowments, which have been treated of elsewhere. What was necessary seemed to be to remove from the argument in favour of endowments, the sympathy which intelligence is apt to have with whatever is represented as likely to create or cherish it. If anything were wanting to complete the answer to the views of the able author, it might be found in a comparison of all the works accomplished without the aid of endowments, in spite of, or as it might be said, with the aid of difficulties, and those which have been accomplished by means of that species of encouragement. And the answer would be still more complete, if the instances of subserviency to political power, to the aristocracy, to wealth, and their several corruptions against the general weal,—and those in which virtue itself has been squared to the narrow limits of prevailing prejudice,—were also brought into the account.

ART. IX.—*An Account of the Present State of the Island of Puerto Rico.* By Colonel Flint, of the General Staff of the Army of Her Most Catholic Majesty, and Knight Commander of the Royal Order of Isabel the Catholic.—London; Longman and Co. 1834. 8vo. pp. 392.

THE hitherto small progress of the political sciences has arisen partly from the imperfections of the method pursued, and partly from the opposing interests of the 'potent.' For, as Hobbes remarked, if it had been a thing contrary to the interest of men that have dominion, that the three angles of a triangle should be equal to two right angles, that doctrine would have been, if not disputed, yet suppressed, as far as they whom it concerned was able. This circumstance, though it probably can not be said to have ever retarded the progress of the science of pure mathematics, did yet at one time considerably retard that of the science of mixed mathematics or physics; as for example, when it made Galileo the victim of the vindictive persecution of the Catholic priesthood. But it has exercised a far wider as well as a longer continued influence in retarding the progress of political science. In that, when the investigations of the philosopher had arrived at some method of promoting the happiness of the human race, that method being at once seen or supposed to be contrary to the interests of the potent One or Few, he was prevented from obtaining any opportunity of tasting and verifying his *Philosophiæ 'Politiciæ' Principia 'metaphysica.'* Moreover the 'potent' and their 'doctors' lost no opportunity on their part, of vilifying or ridiculing the labours of those who endeavoured to advance the interests of political science. They represented their theories as 'wild, visionary, chimerical.' They branded the men themselves with the epithets of dreamers, projectors, theorists, and they took especial care that their theories should never become practice. In the same way the monkish doctors of his day, damned the heretical theories of the 'starry Galileo;' and the medical doctors of his, carefully eschewed Harvey's *theory* of the circulation of the blood. 'But all men know, that the obstructions to this kind of doctrine, proceed not so much from the difficulty of the matter, as from the interest of them that are to learn. Potent men, digest hardly anything that setteth up a power to bridle their affections; and learned men, anything that discovereth their errors, and thereby lesseneth their authority.' (Leviathan, ch. 30.)

The book named at the head of this article exhibits evidence adapted to the meanest and most practical capacity, of the truth of some of the theories which the political economists

have been long attempting to disseminate, amid the sagacious winks and shakes of the head of the 'practical men,' the scorn and hatred of the 'potent,' and the jeers and jibes of their 'doctors.' The first of these, as being at the present moment the most important, is the proposition that under all circumstances free labour is more economical than that of slaves.

Colonel Flinter undertakes to prove by the practical example of the Spanish colonies, that white men, equally with people of colour, born between the tropics, can work in the fields as well as the natives of Africa; that all the productions of those climates may be raised by their exertions; and that free labour, under proper regulations, is cheaper and more advantageous to the planter than the forced labour of slaves.

'Some of those,' says Colonel Flinter, 'who have most strenuously maintained the colonial controversy against the arguments of the abolitionists, have endeavoured to support the necessity and the utility of slavery on principles the most absurd and untenable. They maintain that slavery is absolutely necessary for the cultivation of the colonies—that free labour would be ruinous—that the negroes are not fitted by nature for the full use of the intellectual faculties—that they are only proper objects for the yoke of eternal bondage. With equal warmth has it been asserted, that the negroes are not endowed with any of the better feelings of our nature, and every vice has been unqualifiedly ascribed to them. Let it be remembered, however, that in these statements the picture of the slave has been drawn by the persons who oppress him—by those who have an interest in discouraging all who would wish to procure his freedom.'—p. 231.

He then proceeds to give examples from his own personal observation, both of the moral and intellectual capabilities of the Africans. The following is evidence of facts, the neglect of which by those egregious persons who in this country set up for statesmen, though it was forced upon their attention by some of the political economists, has cost the country twenty millions of pounds sterling.

• 'In the Spanish colonies, however, by good conduct and industry, the slaves may count on the certainty of obtaining their freedom in a very few years, and becoming, by good conduct, useful members of society. It is a very common thing for slaves in the Spanish colonies to accumulate property from their savings, and to enfranchise themselves and their children. When the captain-general visited every part of Puerto Rico, in the latter end of last year (1832), to hear the complaints of the inhabitants, and to inspect the administration of justice, an old negro, in a distant part of the country, presented himself to his excellency, making a complaint that a person had purchased from him three or four head of cattle for which he could not obtain payment. The captain-general, on inquiring into the truth of the complaint, found it to be just, and ordered immediate pay-

ment to be made to the slave. I asked the old man how many years he had been in the island, and if he had any more cattle. He answered that he had several cows which he had purchased with the savings of his industry, and which he reserved in order to manumit his two children; and that he had been sold only twelve years ago by a gentleman from Barbadoes. He added, that he had already purchased the freedom of his wife and one son.'

'Although the laws of none of the European colonies recognize the property held by slaves, yet in the Spanish colonies it is not only tolerated, but, I may say, has become a law by custom. I have known many slaves who possessed slaves, houses, and property in land. There is at this moment a slave in the Havannah, who is supposed to possess property to the amount of 100,000 dollars, and yet he will not enfranchise himself. I have known many slaves in Puerto Rico who have money to purchase their freedom, but prefer remaining slaves. I have known even offers of freedom to be refused by several of them. In the French colonies, on the contrary, a negro slave cannot possess property of his own; and in the English islands, although he may have money to purchase his freedom, the master may refuse his consent to it, if he thinks proper, or demand any sum his avarice or caprice may suggest.'—p. 233.

Again:—

'Freedom cannot be denied in the Spanish colonies to the slave who produces the sum stipulated by law, [the *maximum* for a slave robust, young, and perfectly healthy, is 300 dollars], whether acquired by donation or by his own industry; and he may purchase either his own freedom, or that of his wife and children. In no part of the world, where slavery exists, is the manumission of slaves so frequent as in the Spanish dominions: the proof of this assertion is, that there are more free people of colour in Puerto Rico alone, than in the whole of the French and English islands put together; although, in the latter, there are more than twenty times the number of slaves contained in the former island. The Spanish legislation from the remotest period favoured the liberty of the slave in a most extraordinary manner. There is also a religious feeling among the Spaniards which does them infinite honour, and which induces many masters in their wills to manumit their slaves, as the reward of faithful services.'—p. 235.

Again:—

'The cases are plainly marked in which an abuse of authority, or an excess committed by the master, is punishable by the laws. The cases in which slaves may acquire their liberty, and the manner of acquiring it, are also clearly established.'—p. 243.

Next is the Colonel's proof, that all the work which is now done by slaves, may be better, and cheaper done by free labour. The following table of the population of Puerto Rico given by Colonel Flinter (p. 206) from the official returns made to the Spanish government, shows not only the

relative proportions of white, coloured, and black, and of free and slave, but also the increase since 1802; which last circumstance alone denotes a great difference between this and the West India colonies of every other European power.

Years. to	Whites.	Free People of Colour.		Total Free, of Colour.	Slaves.	Total Coloured Population.	Total Population of the Island	Ratio of Increase.
		Mulattos.	Blacks.					
1778								
1802	78,281	55,164	16,114	71,278	13,333	84,911	163,192	132 p.c.
1812	85,662	63,983	15,823	79,806	17,536	97,342	183,014	12 do.
1820	102,432	86,269	20,191	106,460	21,770	128,190	230,622	26 do.
1827	150,311	95,430	25,057	120,487	31,871	152,361	302,672	10 do.
1830	162,311	100,430	26,857	127,287	31,240	161,527	323,838	6½ do.

It appears, therefore, that the slaves amount to very little more than one tenth* of the whole population of the island of Puerto Rico, more than half of that population being whites, and the remaining four tenths free persons of colour. It also appears, that a rapid increase is taking place in all classes of the population. Colonel Flinter, however, has committed some grave error in his calculation, where he says that—

* The white population of Puerto Rico, from the year 1812 to 1830, a period of eighteen years, had an augmentation of 189½ per cent; the free people of colour, 159½; the slaves, 201; and the whole population an increase of 176½ per cent; a rate which would double the inhabitants in less than fifteen years.—p. 210.

It would indeed, nearly treble them. But any one by inspection of the table given above, may perceive that the increase is something very different from this; and that even in the eighteen years, neither the whole population, nor the slave portion of it, do quite double themselves, although the whites do and rather more.

It is now to be shown whether the productions of Puerto Rico are all ~~consumed~~ by this one-tenth of its population. It will be better to let Colonel Flinter speak for himself on this subject, though his statement is not in all parts so clear as might be wished.

‘I also hope to be able to establish in a most satisfactory manner, that three-fourths of the produce consumed in and exported from the island is cultivated by free labour. Taking a medium between the census made by order of the Spanish government in 1828, and the number of slaves whom I know positively to have been kept out of the

* In the British West Indies, Colonel Flinter says the slaves were 10, or about 10, of the population.

registry by their owners, I calculate that there are 45,000 slaves in Puerto Rico: deducting from this number about 15,000 employed in domestic services, 30,000 slaves, men, women, and children, remain for field labour. There are at this day, on the island, 300 sugar and 148 coffee estates, regularly established and under cultivation, which would give to each estate, on an average, thirty-seven slaves of every description, of whom many must be inefficient in consequence of infancy, old age, disease, or accidents. The whole of the sugar cane cultivated in 1832, produced 414,663 quintals of sugar, each quintal weighing 112lbs., besides 1,324,717 gallons of molasses, and 16,600 puncheons of rum. The coffee plants yielded the same year, 250,000 quintals of coffee, which, on an average, were sold on the spot for twelve Spanish dollars each. There are, exclusively of the 300 sugar estates already mentioned, 1,277 cane plantations on a small scale, with wooden mills and rollers, belonging to independent proprietors, and cultivated, with few exceptions, by free labourers. Thus, after having investigated this important subject, and acquired every information that could tend to lead to just conclusions, I pronounce, on the evidence of practical experience obtained on the spot from the purest sources, that at least 80,000 quintals of sugar, 400,000 gallons of molasses, and 6,000 puncheons of rum, have been the product of free labour, — which clearly demonstrates that those articles, furnished in the French and British colonies exclusively by the work of slaves, may certainly be obtained by the operation of free labour. The friends of human nature, the friends of rational liberty, the advocates for the prudent emancipation of the West India slaves, must rejoice in the triumph of this practical experiment of free labour within the tropics. Although I have allowed to each of the coffee estates thirty-seven slaves, yet the greater number of them are cultivated solely by free labourers. But even admitting what is not the fact, that the whole number of coffee estates were cultivated by slaves, and allowing that each of them yields 300 quintals of coffee ready for the market, it will only make a total of 44,400 quintals produced by slave labour; but as the island produced in 1832 a crop that exceeded 250,000 quintals, 205,000 quintals at least must have been the product of free labour*. The same year, 34,902 quintals of tobacco and 9,627 quintals of cotton, cultivated in the island, were legally exported. The tobacco averaged five dollars per quintal; and the cotton, which is equal in quality to that of Pernambuco, averaged twenty dollars per quintal, — which, added to the quantities which we may suppose had been shipped without paying duty and consumed by the inhabitants, were cultivated exclusively by free labourers.

‘In like manner all the horned cattle are reared by free labourers. There are upwards of 100,000 head of horned cattle on the island. Almost every man who possesses a cabin and a bit of land, has also two or three cows to give milk to his family, which, with plantains, sweet potatoes, and cassava bread, constitutes their chief food. The

* This great production is accounted for by the circumstance (p. 186.), that ‘every white labourer, and free negro and mulatto, has invariably a few coffee plants around his house, shaded by the plantain trees.’

more wealthy proprietors, who have considerable herds of cattle, distribute the calves, when a year old, in lots of two, four, and six, among the poor tenants and poor landed proprietors; these take care of them until they are fit for sale, when the profit is equally divided between the proprietors and the persons who have taken care of them; and by this means, a great number of cattle are fattened every year, and sold to the vessels which come to the island, for the purpose of transporting them to the English, French, and Danish islands. In 1832, cattle to the amount of 220,000 dollars were exported legally. The cattle of Puerto Rico bring a higher price than those of South America, in consequence of their being fattened on the finest pasture land in the world, and being as tame as the cattle of England. There were also on the island about 80,000 horses, 1200 mules, 600 asses, 7,000 sheep, and 5,000 goats, the greater part of which are reared by the free peasantry. Besides the valuable productions I have just enumerated, there were 80,000 quintals of rice, 45,000 quintals of Indian corn, 700 quintals of pepper, and many other minor productions, the principal part of which are cultivated by free labour.'

'I have only deemed it necessary to observe in this place, the exact quantum of the staple productions of the tropics which has been the result of free labour in one year in Puerto Rico; for it establishes the fact beyond the possibility of contradiction, that every description of West India produce can be raised by free labour in the colonies; and that the white and free coloured population may, by proper discipline and regulation, be brought to work as day labourers. The cultivation of tropical produce will unquestionably become in time cheaper and more advantageous, as it is certainly more humane, by free labour than by slaves. I have tried the experiment on a coffee estate of my own; I have also seen it repeatedly tried on indigo plantations,—the most unhealthy as well as laborious class of tropical agriculture,—and I have always found that the cultivation both of coffee and indigo, was cheaper by employing free labourers than by slaves.'—p. 263 *et seq.*

Colonel Flint declares in different parts of his book, that he is a great enemy to revolutions and republican governments. But the following evidence which he adduces in favour of his doctrine of free labour, seems to go rather against him in regard to the points above named.

'I have already stated, that the sugar cane is cultivated by the labour of freemen in Puerto Rico; I shall now bring additional proofs to show that it is also cultivated elsewhere by the same means. In the island of Margarita, formerly belonging to Spain, now forming a part of the republic of Columbia, all the sugar cane raised is by free labour; and all the sugar and molasses made, and rum distilled, are produced by free labourers. It is true that the island does not produce a sufficient quantity of these articles for its own consumption, but this does not alter the question; it yields as much, or perhaps more, at present, than it did when cultivated by slaves. I speak not from hearsay: I have visited that island—I have been on every plantation—and I have observed the

exertions and the industry of the free labourers. I shall only offer one example in this place in corroboration of this fact. A friend of mine, an Englishman, Doctor Emery, rented an estate in Margarita, in the year 1824, from the Columbian government; it was called the Estancia, and is situate in the centre of the island, in the valley of Paraguachi. When the island was in the possession of Spain, the estate belonged to a convent of monks; and on it were from fifty to sixty slaves. The republicans drove the monks off the island; the able-bodied slaves, in order to obtain their freedom, enlisted in the victorious army, and the estate became the property of the new government. The lands were divided among a great many poor persons, who paid a rent in kind, and the whole was rented to one person, who received the rent of the under-tenants, and paid government a certain yearly sum. One of the conditions under which the tenants hold these lands was that they were obliged to sell to the head landlord, at harvest time, all the canes they might have raised, at a valuation. When I visited Margarita in June, 1827, there were upwards of a hundred families living on the lands, each with a comfortable cottage, a field of cane, Indian corn, and plantains, all most carefully cultivated. They worked for a shilling a day on the property of the landlord; and the young men who had no family to support, hired themselves as labourers, by the month, for about a pound sterling. They made sugar, distilled rum, and performed all the laborious work formerly done only by slaves; thus the landlord had his cane planted and cut without any trouble, and each tenant cultivated his plot of land with care, for on his industry depended the comforts of himself and family. I have heard old and intelligent neighbours say, that the estate thus cultivated produced considerably more than when in possession of the monks, and worked by slaves. All the sugar-cane raised on that island is cultivated precisely in the same manner. There were six stills for making rum continually at work, managed by free labourers, and supplied with sugar and molasses from the fields of the small tenants. The population of Margarita may amount to about 27,000 individuals; and everybody subsists by his own labour. The soil is extremely dry; there is a great scarcity of water; but the islanders are very industrious, for, although they sometimes lose two or three successive crops from drought, yet they still continue to plant and cultivate their land, which is well fenced in. In a country like that which I have just described, notwithstanding there are scarcely any restraints of law or government, yet I have never seen a more quiet or orderly set of people; no person would have imagined that so many slaves could have been reduced to industry, merely by letting them have an equality of rights and privileges with their fellow men.—p. 269 *et seq.*

This is indeed a cheering and delightful picture, and Colonel Flinton's candour in presenting it to the world does him the highest honour. In spite of his attachment to the Spanish monarchy, his own report must needs make him admit that a republic is not so bad a thing after all.

For about a shilling sterling of daily wages, a free labourer will
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work in the field from sun-rise to sun-set in Puerto-Rico, and on a moderate calculation will perform more work during that time than two slaves. One of the principal advantages which results to the planter from free labour is, that he sinks no capital, as he must do if he purchases slaves; nor does he incur the loss of it in case his labourers should die, or sustain the expense of curing them during sickness, or of maintaining them in the decrepitude of old age.' p. 261.

Now Colonel Flinter calculates the cost of one slave with another at 1s. per day, deducting Sundays, and not taking into account the losses and expenses of sickness and casualties. This at once makes slave labour at least twice as expensive as free. The following result is what might be expected. Colonel Flinter believes that there is not a single estate on the island which cultivates sugar by slaves alone, that can pay one shilling of interest for the capital.

'The proof of this,' he says, 'is that all the large sugar establishments on the south coast, which are worked exclusively by slaves, having no pasture lands, and furnishing no other products, are involved in debt and difficulties; while those on the north coast, where there is a mixture of free labour, unless in particular cases where there has been great mismanagement, are free from debt.'—p. 280.

The great increase of production in Puerto Rico appears attributable mainly to the introduction of free labour. In 1810 the exports amounted only to 65,672 dollars; in 1832 they exceeded three millions of dollars. In 1810, the island produced 3,796 quintals of sugar; in 1832, it produced 414,663 quintals, 76 lbs. In 1815 a royal decree was passed, intitled 'Regulations for promoting the population, commerce, industry, and agriculture of the island of Puerto Rico.' One of its provisions encouraged the immigration of industrious and enterprising foreigners, by conferring on them and their children the rights and privileges of Spaniards to their full extent, and by granting them lands free of all expenses. Land being granted moreover to persons even of the lowest class, not slaves, on the single condition of cultivating it, in this way at once a vast field was opened for free labour. The colonists were even declared to be free for fifteen years from the payment of tithes; and at the end of that period they were to pay only two-and-a-half per cent. They were also for the same period released from some other burthens and restrictions. The result was no less remarkable on the public revenue of the island than, as has been already seen, on the quantity of production. Until the year 1810 a large sum of money was annually sent from Mexico to pay the governor and the civil and military establishments. In 1832 the nett

revenue of the island amounted to 798,404 Spanish dollars, and the expense of its government to 630,300; leaving a balance in the treasury of 168,104. It is remarkable that upwards of one-fourth of the revenue arises from a property-tax; which to the credit of the good sense of Puerto Rico, appears (p. 145) to be highly popular.

Colonel Flinter's book, from the facts it contains, is eminently valuable; and the general tone and spirit of it are such as to reflect honour upon its author.

ART. X.—1. *Tabellarisch-statistische Uebersicht der Staaten des Deutschen Bundes.*—Rinteln. 1831.

2. *Deutschlands Constitutionen, &c.*—Rinteln. 1833.

TWENTY years have elapsed since the Sovereigns of Germany solemnly promised to their people the establishment of representative governments, as a stimulus to those exertions for the overthrow of French domination throughout Europe, which were without parallel in history for unanimity, valour, and success. The Confederation of the Rhine, an incomplete and impotent conception of Napoleon's, was formally dissolved on the 25th of March 1813, at Kalisch, by the Emperor of Russia and the King of Prussia. The sixth Article of the treaty of Paris, dated May 30th 1814, declares the basis of the new Germanic Confederation. And the thirteenth Article of the Federal Act of Vienna, dated 8th June 1815, confirms the promise which had been previously held out by the several individual sovereigns, that 'in all the States of the Confederation there shall be a separate legislative constitution.' (*In allen Bundesstaaten wird eine landständische Verfassung statt finden*). England guaranteed that engagement, by the signature of her plenipotentiaries and the ratification of her king.

The following is a list of the sovereigns who have complied with the letter of their promise, by nominally granting constitutions to their subjects.

					Date of Constitution.
King of Bavaria	...	...	...	...	26 May 1828.
King of Wurtemberg	...	...	...	...	25 Sept. 1819.
King of Hanover	...	...	...	...	7 Dec. 1819.
King of Saxony	...	...	...	...	1 March 1831.
Grand Duke of Baden	...	...	...	...	28 Aug. 1828.
Grand Duke of Hesse-Darmstadt	...	...	...	...	17 Dec. 1820.
Electeur of Hesse	...	...	...	...	1 Jan. 1831.
Grand Duke of Luxemburg	...	...	...	...	24 Aug. 1815.
Duke of Brunswick	...	...	...	...	2 April 1820.

Duke of Nassau	...	...	...	2 Sept. 1814.
Duke of Saxe-Weimar	...	...	...	15 May 1816.
Duke of Saxe-Meiningen-Hilburghausen	...	...	...	23 Aug. 1829.
Duke of Saxe-Coburg-Gotha	...	...	...	8 Aug. 1821.
Prince of Swarzburg-Rudolstadt	...	...	...	8 Jan. 1816.
Prince of Lichtenstein	...	...	...	9 Nov. 1818.
Prince of Waldeck	...	...	...	15 April 1816.

The following is a list of those who have violated their pledge both in its letter and its spirit, by altogether refusing constitutions.

Emperor of Austria	...	...	...	...
King of Prussia	...	...	...	...
Grand Duke of Mecklenburg-Schwerin	...	...	...	...
Grand Duke of Mecklenburg-Strelitz	...	...	...	...
Grand Duke of Oldenburg	...	...	...	...
Duke of Holstein	...	...	...	...
Duke of Saxe-Altenberg	...	...	...	...
Duke of Anhalt-Dessau	...	...	...	...
Duke of Anhalt-Bernburg	...	...	...	...
Duke of Anhalt-Coethen	...	...	...	...
Prince of Hohenzollern-Heckingen	...	...	...	...
Prince of Hohenzollern-Sigmaringen	...	...	...	...
Prince of Reuss, senior branch	...	...	...	...
Prince of Reuss, junior branch	...	...	...	...
Prince of Lippe	}	} who offered the mockery of a constitution which the people rejected.		
Prince of Lippe-Schaumburg				
Prince of Swarzenburg-Sonderhausen	...	...	...	...
Landgrave of Hesse-Homburg	...	...	...	...

Here then are nineteen millions of people totally deceived and wholly trampled on by sixteen monarchs, to maintain whose existence they suffered, and fought, and conquered; and fifteen other millions shamefully mystified by their eighteen rulers, in a series of documents called Constitutions, which the breath of despotism is continually crumbling into dust*.

* In this statement no exception is made in favour of the four 'free towns,' they being, like all the smaller monarchical states, wholly under the influence and direction of Austria and Prussia.

The Germanic Confederation comprises thirty-eight states; thirty-four of which are governed under a monarchical, and four, consisting of the so-called 'free towns,' under a republican form. The population according to the last returns is as follows. The order observed is that of the Federal Act.

The portion of the Empire of Austria in-	}	10,820,500
cluded in the Confederation		
Prussia	.	9,665,000
Bavaria	.	4,030,000
Saxony	.	1,435,000

The thirty-four millions composing the population of the States comprised in the Germanic Confederation, are divided into about sixteen millions of Catholics, seventeen millions of Protestants, eight hundred thousand smaller Sectaries, and two hundred thousand Jews. The armed force of the Confederation constantly under arms, and thus forming its peace establishment, is about 300,000 men, of which number Austria provides about 95,000, and Prussia about 80,000.

These facts and data furnished by documents of the Germanic Confederation, are texts from which to preach on kingly perfidy and national degradation.

Important as the state of central Germany is to the world, it is perhaps less an object of speculative interest in England at this moment, than that of central Africa; and the various

Hanover	1,546,000
Wurtemberg	1,585,000
Grand Duchy of Baden	1,157,000
Electorate of Hesse	613,000
Grand Duchy of Hesse	720,000
Duchies of Holstein and Lauenberg	454,000
Grand Duchy of Luxemburg	298,650
Grand Duchy of Saxe-Weimar	230,000
Grand Duchy of Saxe-Coburg-Gotha	156,000
Duchy of Saxe-Altenburg	109,500
Duchy of Saxe-Meiningen	136,000
Duchy of Brunswick	251,000
Duchy of Nassau	248,000
Grand Duchy of Mecklenburgh-Schwerin	446,000
Grand Duchy of Mecklenburgh-Strelitz	79,343
Grand Duchy of Oldenburg	254,000
Duchy of Anhalt-Deßau	53,070
Duchy of Anhalt-Bernburg	40,400
Duchy of Anhalt-Coethen	35,200
Principality of Schwarzburg-Sonderhausen	50,000
..... of Schwarzburg-Rudolstadt	58,000
..... of Hohenzollern-Hechingen	15,000
..... of Hohenzollern-Sigmaringen	41,800
..... of Lichtenstein	5,850
..... of Reuss, senior branch	24,300
..... of Reuss, junior branch	58,500
..... of Lippe	67,730
..... of Lippe-Schaumburg	26,000
..... of Waldeck	56,000
Landgraviate of Hesse-Homburg	22,400
Free Towns.	
Frankfort	54,000
Hamburg	140,000
Lubeck	47,000
Bremen	57,800
Total	35,086,743

political details of the countries which form the Germanic Confederation, less generally known than those of the federal states of North America. The information to be gleaned from newspapers is so scanty, so scattered, and so uncommented on, that it makes small impression on the public, who cannot, at a period so fraught with domestic agitation, find time, even if they had opportunity, to put the links together and form a chain of facts, much less of reasoning.

The prevalent notions of Germany among the English are as vague as they are imperfect. The work of Madame de Stael is still the basis of the vulgar belief, and those whose creed is formed on it, view Germany through the veil of her enthusiasm, with that sort of unreal conviction inspired by a religious mystery. But this is a dangerous because a false medium of vision. There is a constant vapour between the observer and the object. And it is possible in morals as in optics, to put the wrong end of the glass to the eye, diminishing what ought to be magnified, and making more distant what ought to be brought near.

The German character of to-day, is by no means that traced a quarter of a century ago by Madame de Stael, in the sands of fancy which have long since been washed away by the tide of facts. It is no longer a waking dream, a half-drunk idealism, an ecstatic mixture of science drowned in oceans of theory. The abstract philosophy to which the German people were driven through the impossibility of cultivating the positive wisdom of social good, has long been evaporating. The floating theories of the past century are becoming solid and condensed. The scattered hopes of many States are fast verging to a point. Germany is but little behindhand with the most enlightened nations, in that noblest national work, a union of interests, of objects, and of action. As shadowy exaggerations rise from the surface of her social system, a moving mass of intelligent beings is discovered industriously toiling for improvement, in the broad light of reason which has dispersed the mists. Metaphysical abstractions, once adored and invoked as so many palpable divinities, are now laughed at as chimeras.

Since the fall of Napoleon, a change in German feeling has kept pace with the evident reaction against the mystifications of its philosophy. The events of 1813 and 1814, and the triumph of success against the colossal power of France, have awakened a new chord in the national mind. Religious controversy and local prejudices are to a great extent in abeyance. A wholesale impatience is felt, to participate in the great events which agitate Europe. Enthusiasm, in short, has reached a crisis, which involves the broad interests of mankind at large.

Germany, as it has for some time past existed, is a political epitome of Europe. It contains every form of government, from absolute monarchy to republicanism; and confers every title of command, from emperor to burgomaster. This variety of institutions, with a corresponding multiplicity of laws, are of necessity obstacles to that national union, the want of which has been so long deplored.

The perfect union of the small German States under one general constitution, if not actually under one sovereign, is by no means an impossibility. It must be remembered that the sentiment of nationality was once strong enough to overthrow the power of papal despotism, the influence of the clergy, and the yoke of feudality. Such were the materials that composed the nominal unity of the empire, when broken up in the 15th century by the effect of the Reformation; and the same sentiment which thus decomposed the most solid political construction of the middle ages, might now suffice to reunite the scattered feelings which have a common impulse.

The absence of what are called natural boundaries between the States, their limits being wholly conventional and joining each other like the grooves of a railroad, the common language, the common name, the common literature—for who asks in what duchy Schiller or Göthe was born?—all tend to facilitate this junction. There is little vindictive rivalry between the small States; few local jealousies, as between the provinces of modern Belgium, nor bloody feuds as between the republics of ancient Greece. The literature alone, nay even the abstract sublimities of German philosophy, have been hitherto sufficient to keep up a common identity; and now that a general ardour for constitutional freedom has superseded the philosophy, and given a finer impulse to the literature, there is no miracle of national good that may not be expected.

The Germanic Confederation concocted under the pretence of forwarding the desired object, is universally admitted to be a total failure (supposing it to have been ever intended) for that purpose; though its utility as an instrument of despotism has been very considerable.

The Federal Act which is the charter of this anomalous institution, is so vague, from the difficulty of reconciling the clashing interests of Napoleon's thirty-six *impromptu* sovereigns,—who are unconnected without being independent, as their States are aggregated without being united,—that no specific designation suits it exactly. It has been defined by some a *civitas fœderata*,—by others a *fœderatio civitatum*. All its members rank as equals, and it wants a head. Its decisions on major or organic

questions, have not the force of law, unless they are adopted unanimously. \ This necessity of unanimity gives it an analogy with the *liberum veto* of the ancient Diet of Poland; while in its ostensible object, the establishment of a perpetual peace in Germany, it is similar to the Imperial Chamber, a paramount Court of Justice established in the fifteenth century by the Diet of Worms.

If then the Diet of Frankfort, formed June 8th 1815 as the representation of so many sovereigns and governments, was only a cheat put upon the people of Germany, its existence is a flagrant anomaly in the present state of things. It is a body representing the rulers, not the people; for even the States which are said to enjoy free constitutions have no voice in choosing the members of the Diet. The members are nothing but the nominees of the monarchs; and their constant aim, if not their ostensible object, is the counteraction of popular opinions, and the extension of monarchical power.

It is to the organic imperfections of this body corporate of misrule, that may be attributed not only all the positive, but also the negative evils of the several States. Opinions are various as to the best means of purifying it. On one hand are found many advocates for consolidating the scattered elements of power under an Emperor of Germany, as of old; and this party, hurried away by recollections of national renown, bound at once, in their vaulting ambition, over all the inevitable obstacles of war from without as well as within, besides the interminable difficulties that would arise from the crowd of kings and princes to be mediatized, supposing the accomplishment of their Utopia.

Others call for a Protector of the *Confédération à la Napoléon*; — a *pactum leonis*. But this notion is too anti-national, and its advocates too few, to merit notice.

A third party are for merely excluding Austria and Prussia from the Confederation as it now stands, in order that the rest of Germany may not be dragged into the vortex of questions foreign to their interests,—or rather, it should be said, that those two powerful monarchies may not be able to check the progress of democratic principle in the smaller States.

But the last, and infinitely the most feasible as well as popular project, is the formation of one great national assembly, nominated by the people of the different States, in addition to the Diet as already constituted; which last being named by the sovereigns, would form another chamber,—under what title is immaterial,—thus establishing a double body of representatives on the plan, or at least the form, of the American

Congress; and connected with this plan is that of granting to each State the privilege of giving a President in rotation, instead of allowing Austria to retain a vested right to that perpetual advantage.

But while these various plans of reform are canvassed on their relative merits, the major mischief which they are expected to remedy is suffered to exist. And it may be a subject of wonder, that in the interval necessary for the accomplishment of any of the proposed cures, the representatives of some State or other do not make an effort to send to the Diet from their local sphere of power, even a single organ of public opinion, instead of so many creatures of princely pleasure. The representative bodies in several of the States have proved their strength by effecting changes in various constitutions,—the passing of new laws,—the defeat of refractory ministers,—and even the upsetting of unworthy sovereigns. Could not then one instance be found of capability to dictate the nomination of a liberal member to the Diet? The principle of unanimity necessary to the legalizing its organic decisions, gives to any individual member the power of preventing a tyrannical decree, even if he be without influence for effecting a popular enactment. Is it from some occult and instinctive veneration for their rulers, that the champions of popular rights will not venture to trench on the prerogative?

To the multiplicity of small States, the variety of legislative and political systems, and the rivalry of conflicting principles of education and commerce, must be attributed the superiority of Germany in point of moral culture and general information. But now that those advantages have become the patrimony of the whole people, every consideration of policy announces the principle of national union, as essential to the common good.

This necessity may be proved by tracing it under the five different heads, of political, material, commercial, legal, and intellectual interests.

As to political interests, it is evident that if the powers of government become gradually vested in popular representatives the organs of the national will, the abuses which have from time immemorial arisen from the caprice of petty ambition and the swarming corruptions of courts, would cease; German history would no longer present, as it has hitherto done, the picture of a people being nothing but docile instruments in the hands of princes, and battling and bleeding in support of their selfishness, their avarice, or their fanaticism.

In relation to material interests, it is to be observed, that up

to the end of the 18th century, the German princes drew from the revenue of their domains, which they possessed as fiefs or property by inheritance, the sums required for the public service and the wants of the court. The provincial States were called on only at long intervals, to vote subsidies for some extraordinary expenditure; and it was truly remarked, that if each of these small German States was a centre of corruption, it was also a source of national wealth. But since that period, the princes have reduced or encumbered their private fortunes, and loaded the domains of the State with debt; so that their means being nearly absorbed in the payment of interest, the costs of each sovereign establishment and of the administration are well nigh at the public charge. The civil lists, which amount throughout Germany to a sixth part of the nett revenue of the state, would be assuredly considerably reduced and so far saved to the people, were the unity of the country under a common chief, or by a general representation, once realized*.

With regard to commercial interests, the reasoning is stronger still, and the considerations more extended. The taxes of the various States, excessive as they have been, being found insufficient to meet the expenditure, the governments, so far from seeking relief in retrenchment and economy, have only striven to increase their revenues by means of custom-house exactions. It did not escape the sagacity of the Congress of Vienna, that this ready but ruinous measure would inevitably injure the national prosperity, and at the same time excite universal discontent. Moreover it was solemnly promised, by most of the sovereigns, to establish the freedom of navigation on the several rivers, and to abolish the accumulated vexations of those custom-house establishments, so stifling to the exertions of internal industry, and so demoralizing in the manifold temptations they hold out to smuggling.

Both ~~prosperity~~ and prudence dictated the performance of these engagements. The selfishness of the governments, and a false estimate of their real interests, caused so justly-looked-for a consummation to be continually retarded; until at length, in

* The 38 States of the Confederation employ the following number of persons in the more elevated offices, with large salaries.

In offices attached to the royal person and the court	. . . 127
Under the ministers, not including the under-secretaries	. . . 132
Ambassadors (not including those stationary at Frankfurt)	. . . 78
Counsellors of Legation and one secretary	. . . 108
Total	. . . 445

the autumn of 1831, the exasperated people of several of the minor States rose up in executive justice, destroyed the custom-houses, with in some instances loss of lives, and threatened the subversion of more than mere fiscal regulations.

Then, and then only, the various Commissions, long before nominated and paid, for the purpose of regulating the dues, and doing away the obstacles opposed to the free navigation of the rivers, appeared to wake from their lethargy. The navigation of the Rhine, the Elbe, and the Weser was rendered more endurable, the old annoyances mitigated, and the zealous incivility of the starchers and other agents of custom-house espionage softened down.

It must however be admitted, that several of the governments, —whether from conscientious recollections of their pledges, or from a tender susceptibility to the difficulty of raising the ordinary taxes,—began, about the year 1818, to adopt the principles on which the measure of internal commercial freedom might be based. But the earliest negotiations failed, from the difficulty of coming to an agreement on the two following questions, viz.

In what proportion were the customs to contribute to the receipts of the State?

What proportions were to be assigned to the import duties on foreign products?

In proportion with the greater or smaller preponderance of interests, and with the various principles of trade, treaties of commercial union were successively formed between Prussia, Hesse-Darmstadt, Saxe-Weimar, Coburg, the principalities of Anhalt, and a multitude of other States, which are altogether, or in part, inclosed within the Prussian territories; and at a later period, between Hanover, the Electorate of Hesse, Oldenburg, and Brunswick, (called the Union of Eimbeck), which joined the union of central Germany, composed of Saxony, Nassau, and the free towns of Bremen and Hamburg. The first of these unions comprised about thirteen millions, the second about six millions of individuals.

But the recent success of Prussia in inducing Electoral Hesse, Frankfort, Bavaria, Wurtemberg, even Baden it is to be feared, and so many other of the small States to join her commercial system, in defiance of separate treaties or individual advantages, sinks all the minor interests of those comparatively petty unions, which it in fact abrogates or renders null,—

Like Aaron's serpent, swallowing all the rest.

It would therefore be idle to dwell at any length on the

various local objections to this momentous project. The world travels too fast to allow time for long looking back on minute events which have become matters of history, and are lost in the remoteness of a couple of years. In 1832, the facts of those several small questions agitated the whole commercial world of Germany. The tergiversation of Hesse, and the hesitation of Baden, were then points of great moment. They have now almost passed from the public mind. The great object of Prussian supremacy has been consummated, or all but so,—the establishing one common tariff of duties under the protection of the same line of customs.

In fact the primitive and twofold purpose of the Prussian system is, to obtain an increase of revenue for its own wants, and to what is called *protect* its manufactures against the rivalry of those of England, by forcing or persuading the other States, and the non-manufacturing members of its own, to make a gratuitous sacrifice of the difference of price; the ultimate tendency of which is to render Prussia the centre, round which the whole of the material interests of Germany will revolve.

Perhaps this statement of the conflicting interests of the various States, their lines of customs, and their commercial alliances, formed and broken, imperfect or completed, is enough to explain the anxiety and uncertainty which up to this moment paralyze the operations of trade throughout the country. This state of things produces a powerful reaction on the development of agricultural and manufacturing capabilities, retards the circulation of capital, lowers the value of property, and dries up the sources of public prosperity, in spite of the industry, the spirit of order, and the intelligence common to the people of Germany. And thus it requires all the patience and reflective probity of the German character, to watch and wait for the realization of that general unity, the sole sure remedy against evils, from which the solemn engagements of the sovereigns would have long since exempted the country, if an enlightened view of personal interests had led them to march cordially with the people's good.

The question may be considered next as it regards legal interests.

Through the fatal influence, moral, religious, and political, exerted over Germany by the Popes from Gregory VII until the awakening of the people towards the close of the 15th century, the Roman law, canon and feudal, was learned at Bologna, from the earliest period of the revival of science in the middle ages. The youth of Germany who devoted themselves to the ecclesiastical career or the profession of the law, all repaired to that

seat of study; and the latter, on their return to practise their profession at home, found it more convenient and more suited to their private advantage to introduce and inculcate the exclusive practice of the system thus learned, than to adopt it as the means for the improvement of their national law. The protection accorded by the Emperors and feudatories to this substitution of a system so inimical to liberty and so friendly to princely and priestly despotism, in place of the ancient laws of the Franks and Saxons which were based on national usage and the interests of the people by whom they were framed, completed throughout Germany in the 14th century the establishment of the canon and feudal Roman law as the *lex terrena*, or common law of the land. Nevertheless the gradual development of social rights, in unison with national customs, proved the insufficiency of this common law, and the necessity of new enactments, in the numerous feudal principalities, archbishoprics, bishoprics, abbey fiefs, and free towns, into which the Germanic empire was split.

It was thus that there everywhere arose, in the first instance, new laws of usage by the side of those so long received; which again gradually passed into written or statute law. In some places these laws were embodied into codes; in others they remained scattered. Simultaneously with the dicta of the *lex non scripta* or common law, the Diets of the Empire promulgated their sovereign decrees, which had the effect of invalidating the correspondent local laws, in so far as the feudal vassals or the corporations conceived it their interest to submit to the decision of the Diet.

The creation of the two sovereign courts of appeal at Wetzlar and at Vienna [*Reichskammergericht* and *Reichshofrath*] did not fix either the civil law or the public law of Germany; but, in settling some disputed questions, still further augmented the number of the general laws of the empire.

The treaties of Munster and Osnabruck in 1648, those of Luneville in 1801, and of Paris and Vienna in 1814, successively reduced the States and free towns of Germany to their present number. But none of them remodelled or modified that heterogeneous mass of legislation, derived from all countries and all ages, and long inherent in the mediatised states and towns, to which they have clung until this hour, with the tenacity of original sin.

Several attempts for the formation of codes have been made, in Austria, Prussia, and Bavaria, with more or less success. The Grand Duchy of Baden has adopted the civil code of France, with some modifications urgently required by local con-

siderations. Weimar and Oldenburg have adopted that of Bavaria. But; whether from exaggerated scruples as to the sacredness of existing institutions, from want of energy, or a shrinking from the trifling expense required, while millions are lavished on mistresses and military frivolities or in gambling,—all the rest of Germany is still disgraced and burthened by the confused and barbarous accumulations of legislative rubbish, for the removal of which it vainly calls. The proceedings of courts of justice are still secret. The right of translation, vested in the state, still renders the nominal irremovability of judges a delusion; the establishment of the jury is denied; the judicial and administrative powers are confounded, and exercised in the first instance by the same individuals. Germany, in short, is yet afflicted with the curses of tithes, crown and church rents, renewal fines, vassal servitude, and the *corvée*;—except in Prussia, where property has been entirely enfranchised. Majorats and entails yet exist in full force; while the governments, by fostering the abuse of new creations, restrict the right and narrow the facility of individual citizens for the acquisition of landed property.

All that has been said as to legislation in general, bears equally upon the civil and criminal laws in their essence as well as in their forms. For while the letter and the spirit of the civil law, and the technicalities of its practice, are often diffuse, incoherent, and contradictory, opening out a wide field for that chicanery which can twist and turn a suit into interminable labyrinths of law, or let it be finally lost in a wilderness of equity,—the criminal enactments bear in every line traces of the ferocity of times, when the whole effort of the law was to smooth the path of judicial violence against the victims of power. It may be enough to state in illustration, that even now, in the year 1834, men might be legally put to the torture in most parts of Germany, in virtue of the law called ‘*Carolina* *.’

* The celebrated code, if it deserves the title, called *Carolina* (from its author, the Emperor Charles V) or, more specifically, *Hals*, or *Peinliche Gerichts Ordnung*, was formerly the penal code for all Germany, and is still in force throughout the Confederation, with the exceptions noticed above; and even in Prussia, where the *Landrecht* (the civil and penal code) is established, recourse is still sometimes had to the ‘*Carolina*.’ In this code crimes are not classified, but set down as chance might have directed. Witchcraft is ordered to be punished as severely as murder; minor offences, by cutting out the tongue, cutting off the ears or fingers, &c. It is however chiefly remarkable for authorizing and recommending torture as the best means for the discovery of truth, and that the confessions of the accused (in order to justify their being put to death on conviction) should be ‘hastened with the least delay and expense possible.’ A man

The debates in the Chambers of Baden and Bavaria have exposed incontrovertibly the necessity of a purgation of the whole system. The most celebrated professors of the philosophic and historic schools of law are of one accord on this point, and urge it with all the force of eloquent conviction in their oral lectures and their published works. But the united brilliancy of Savigny, Hugo, Mittermaier, Malheldey, Thibaut, Feurbach, Schweppe, and Wening, is lost amidst those swamps of barbarism, which they illuminate but cannot reclaim. The governments do not yet understand the alchymy that transmutes the treasures of intellect into the solid gold of practical wisdom.

Imperfect as is this sketch of the legislative abuses of Germany, it proves enough to justify the complaints, sent up on all sides by the people. In proportion as the insecurity of person and property (the primitive evil of the social state) is palpable, so has the investigating spirit of the German jurisconsults fathomed the depths of the gulph; so, also, is the popular indignation roused against the power which, having the easy means of healing the social wound, lets it fester and mortify, with a fatuity that is to the full as destructive, if not so odious, as design.

Lastly, as to the progress of intellect, and its interests.

The Reformation had broken the chains by which the Roman Catholic Church had held the social state of Europe in a double thralldom of imagination and conscience. The mental and bodily agitation of the long struggle against the partizans of Papal supremacy, was followed by a lassitude

condemned for stealing a cow was subjected to the torture, in many of its most horrid forms, so late as in the month of March 1818, in the town of Hanover, under the government of the present viceroy, the Duke of Cambridge. The French had abolished the torture during their possession of Hanover, but it was again introduced on the return of the country to the rule of the present government. In the course of the same year, 1818, three other persons were tortured in various parts of the kingdom. But the outcry of reprobation raised in many of the Journals of Germany caused the total abolition of this atrocious custom in Hanover, in the month of December, 1818.

For a particular account of the 'Carolina,' accompanied by some important observations, see *Hodgskin's Travels in the North of Germany*, Edinburgh, 1820; and, for probably the best guide as to the principles of Criminal Jurisprudence in Germany, the Work of Professor Meister of Göttingen. Strangling, hanging, beheading, breaking on the wheel, beating to death with iron clubs 'beginning at the head,' as the sentence says, were the varieties used in putting criminals to death, as late as the year 1818, in Hanover; in which kingdom 35 suffered the extreme penalty of the law in that year.

The punishment of death is now rarely inflicted in Germany.

and exhaustion physical and moral, the peculiar characteristic of Germany during the century which intervened between the peace of Westphalia and the reign of Frederic the Great.

The liberties of the German people during that epoch rested wholly in the keeping of the States, composed of deputies of the church, the nobility, and the towns. But those very deputies allowed the rights and franchises of the people to fall into desuetude from indifference, coupled with the actual want of means to support their proper expenses. The poverty and wretchedness following the Thirty Years war, and falling indiscriminately on all classes of society in Germany, were so excessive, that the united evidence is required of all the private writings and public documents of the time, to give credence to the manifold but unvarying pictures they offer. It was during that epoch of woe and want so auspicious to their designs, that the German princes founded the absolute power, of which they have since appeared to forget both the source and the usurpation. So truly, as in other parts of Europe, may it be said with Madame de Stael, '*la liberté est vieille, et l'absolutisme jeune.*'

The cultivation of the arts and sciences was not merely neglected, but utterly abandoned. The whole amount of German literature consisted of contemptible religious controversies written in barbarous Latin,—during a period in which Milton, Hobbes, Newton, and Spinoza drew forth the deepest secrets from the heart of nature, analyzed the human mind, shattered the pretensions of tyranny, and vindicated the rights of man. The German language was then and subsequently so little cultivated, that even so late as the times of the great Frederic*, he judged it an insufficient channel to convey his sagacious conceptions to the world. It was he, nevertheless, who gave the first impulse to German intellect. It was the greatness of his deeds, the energy of his enterprises, the perfection which he introduced simultaneously in the arts of war and peace, the order he established in all branches of the administration, and finally his encouragement to the cultivation of the language of his country and science in general, that brought on the dawn after a weary night.

Germany, until then so dull, so dreary, and so cold; whose people were only known by their coarse ignorance, and its princes, courts, and aristocracy for their gross corruption;

* To have a just idea of what Germany owes to Frederic II, and to comprehend truly the debt due to his memory by his country,—to know the materials of social life on which he had to work,—the reader may refer to the Memoirs of his sister, the Margravine of Bareuth.

bounded with unparalleled rapidity, not only through the whole known domain of science, but even extended its limits; while education spread its mantle, at once, over all classes of society.

Deep studies, daring speculations, ingenious inventions, master works of imagination, all the fruits of knowledge and all the flowers of poetry, were successively pursued, produced, and cultivated, with the impetuous perseverance which characterizes the ardent German. The many men of talent who at once took their high station in their country's literature, found encouragement and reward, less in the bounty of princes, which if it does not wholly tarnish, at least deeply dims the brilliancy of genius, than in the enthusiastic admiration of their country, in the prodigious sale of their works, and the crowds of pupils who thronged to their lectures. A period no farther off than the year 1750, exhibits the language the literature and the science which so soon produced so many prodigies, still in their cradle; while within from thirty to forty years after, they had attained the apex of their elevation. As Judge Hales said of English jurisprudence under Edward I, they had 'reached at once, *et quasi per saltum*, to perfection.'

Luther, in enfranchising the consciences of men from the yoke of blind belief, opened the intellectual eyes of millions, and let in light on thought itself. Unfortunate circumstances had the temporary power of arresting the consequences of the grand principle of the Reformation. But its operation on the mind and soul of society was not on that account less active. At the first favourable conjuncture, intellect, talent, science, civilization in a word and in its brilliant attendants, sprang from the heart of German society, like ready-armed Minerva from the brain of Jove.

And here is the place to admit the assertion of the few opponents to the unity of Germany, that its division into a number of petty states has furthered and fostered the intellectual developement of the people. But it must at the same time be observed, that all those results of mental emancipation happened unknown to, and contrary to the will of, the princes, and were always due to the inevitable force of circumstances.

Literary, political, and scientific works always found some one of the many small courts of Germany, disposed at least to tolerate, if not absolutely to patronize their publication; either from motives of jealousy against some neighbouring state, or for the sake of the pecuniary advantage which literary speculations gave to the little capital, or for the honour of encouraging at small cost letters and the arts. The facility of propagating each new work of merit all over Germany, and even in the very

State against whose abuses it might be directed, was proportioned to the ignorance of the power of the press on the human mind, which is so common to the lordly arrogance of rank. Few indeed among the petty princes, or the titled littlenesses by which they are surrounded, can yet appreciate that giant power. Imperfectly schooled, and nursed in self-sufficient error as to all beyond their own narrow circle, they imagine that the satire or blame of mere mortality falls innocuous upon their dignity, and that praise and flattery can alone reach their level, as the perfumes exhaled from the offerings of old, were alone thought worthy to penetrate to the thrones of the gods.

The result has been, that the power of thus printing and publishing, was in some respects equivalent to a general liberty of the press. From this privilege, added to the freedom of thought flowing from the Reformation, has arisen the phenomenon of a country which had scarcely passed the threshold of civilization, and barely learned the elements of science, placing itself all at once so near the first rank in the lists of intellectual distinction. The example of Germany, enlightened, religious, and eminently moral, may therefore be triumphantly opposed to those gloomy theories which would restrict the developement of the human mind to slow and gradual progress; and it is certainly here that the enthusiastic disciples of the perfectibility of man, might best lay the foundation of their creed.

The conferences of Pilnitz,—where absolute power reinforced by aristocratic terrors, decreed at one and the same time the suppression of reviving liberty in France, and the reform and re-casting of an order of society grown rusty with abuse,—were the signal for the succession of wars and coalitions which ended in the hostile occupation one by one of all the capitals of the continent, until the year 1815, when the personified genius of war, the ungrateful son of freedom, by freedom disinherited and disowned, sank down, worn out by victory and reverses, to die on the crags of St. Helena.

Until the peace of Luneville (in 1801) which changed the face of Germany by giving it the Rhine for its boundary, and by indemnifying the princes despoiled of their territories on the left bank out of the possessions of the bishops, the abbey, and the convents on the opposite side of the river;—until the abdication of the last of the Cæsars (in July 1806), preceding by a short time the dissolution of the gothico-grotesque combination called the Roman Germanic empire, and followed by the Confederation of the Rhine, which was not really moulded till after the dismemberment of the monarchy of Frederic the Great and the peace of Tilsit;—until then, the learned men of Germany lay

buried in the intricacies of problems and theories, and only started from their reveries at the cannon's sound, to cry with Archimedes '*Noli turbare circulos meos!*'

The people of Germany had, as well as most others, hailed with applause the generous and regenerating notions of 1789, and the wise and just reforms of the Constituent and Legislative Assemblies; but they recoiled from the horrors which sullied those triumphant days. They forgot that those crimes were the fruits of the besotted ignorance and the abject poverty, in which the court and clergy had kept the masses as the foundation of their own privileges.

The deeply moral and religious sentiments of the Germans, led them at this epoch to confound the eternal truths which virtue and philosophy were applying to the reformation of the social state, with the errors of a great people in their outburst from slavery to freedom, and the atrocities of a few miscreants doomed to the execration of history and time.

The Peace of Tilsit (July 7th, 1807) closes the epoch of exclusively intellectual and scientific developement in Germany; and then opens that not less grand but uncompleted period, of the application of the knowledge acquired and truths admitted, to the ameliorations of society, and to the establishment of civil and political liberty in its most ample extent.

Napoleon looked on Germany only as a vast nursery of recruits, a rich treasury, a mighty arsenal abounding with materials for his plans of conquest. With this view he formed the Confederation of the Rhine (July 12th, 1806), into which he forced all the German Princes, declaring himself its Protector; but without even once collecting its members for the mere ceremony of its organization. He raised, as with an enchanted wand, a premature abortion, with the mockery of maturity, but no principle of lasting life. Yet this Association facilitated the production of men, money, and warlike stores, according to the contingents of the several members; and in order that these tributary princes might not be embarrassed in the execution of his commands by the complicated wheelwork of gothic institutions, he encouraged the reconstruction of the whole administrative machinery on the French model, and at once named these former feudatories of the Empire independent sovereigns.

The immediate and temporary effects were correspondent to Napoleon's expectations. The German soldier freed from the servile discipline and narrowed system of tactics which had repressed his courage and cramped his energy, revived the reputation of his ancestors who battled foot to foot with the

legions of Rome, and rivalled the French grenadier in many a field of fame.

Germany now, fully understands the advantages which she derived from Napoleon's ambitious selfishness, as regards her administrative, financial, and military institutions. To the manifold exactions and sufferings of military occupation, to the incorporation of the provinces on the right bank of the Rhine with the Empire, to the continental system, and to the establishment of the Grand Duchy of Berg and the Kingdom of Westphalia, she willingly attributes the birth of that sentiment of nationality, which in its hatred for foreign domination absorbed all the petty jealousies of close neighbourhood and clashing interests, that had previously divided Germany into so many hostile camps.

The genius of Napoleon foresaw the growth of this inevitable sentiment; but whether he really confounded it, or chose to appear to confound it, with the free principles which he had suppressed in France, he employed for the purpose of crushing it the action of a system of terror, accompanied by a train of sarcasm and ridicule, the more bitter from its having striven to degrade and debase all that is most noble and elevated in the human mind. The police filled the functions of the censorship, and courts-martial of the jury; while ministerial judgments were substituted for the justice of the tribunals, in all matters which had relation to public opinion. The execution of the bookseller Palm, the father of a large family, for having refused to betray the author of a work published by him, displayed at once the fierce consistency with which the despot followed up his system. A thrill of indignation was felt through Germany. From the day of that deed, the whole body of intellect and learning rallied against the author. From that time the popular discontent became more systematically managed, augmented, and spread abroad, aided by religion and mystical exaltation, by the spirit of military honour which filled the ardent minds of the camp or the barrack, and the still more powerful principle of intellectual enthusiasm which animated the youth of the numerous universities. Secret associations were everywhere formed. The schism between the people and their rulers became day by day more manifest; for the latter, owing to Napoleon both their sovereign power and its territorial extension, submitted to their slavery with little participation in the national spirit.

It is assuredly this estrangement (to use a mild term) between the German people and their princes, that furnishes the key to the conduct and language of Austria and Prussia in 1813. To meet the rebounding force with which Napoleon

recovered from the disasters of the campaign of 1812, less than a *levée en masse* of the German nation was admitted to be ineffectual. To call the people to arms for the purpose of securing to their princes the plenary powers promised them by their actual master, would have been a fruitless appeal. It was then in the name and by the inspiration of the wide-spreading sentiment of nationality, that they were roused ;—by the hope of throwing off a foreign yoke, and the promise of enjoying full freedom under the tutelary protection of laws and institutions in accordance with the wants and the feelings of the age.

Inspiring proclamations seemed to make hosts of warriors spring from the earth, fully armed and invincible. Priests deserted their pulpits to put themselves at the head of fighting groups, and professors quitted their chairs to lead their classes into battle. The literary men of Germany paid back dearly to Napoleon his Vandalism with respect to themselves.

History will not forget the names of these heroic men, but will recompense them for the black ingratitude of those princes whom they served and saved ; ingratitude which dates its birth from the very hour of their victorious struggle. The enemy once struck down, the people credulous as brave, waited in confident reliance on the promises of the monarchs. It was from Vienna, where all these latter assembled or were represented, that was expected the realization of those laws and institutions which were to repay all sacrifices, meet all wishes, and close the bloody arena which had been so long filled by the prize-fighters of Europe.

The sovereigns, so long the slaves of Napoleon, proved that it is as easy to acquire the faults and vices of great men, as it is difficult to imitate their genius. The first thing thought of by them, in the midst of fêtes and revellings, was the forced exchange of people against people, and the arbitrary dismemberment of states. Nothing but the terror inspired among the sovereigns, great and small, by the return of Napoleon from Elba, would have prevented the victors from quarrelling about the spoils, and forced them to recognize by the Federal Act a part of the promises made to the people, as an inducement for a fresh exertion of their support.

From this period until the events of July 1830 in France, which again constituted a new æra for Germany, fifteen years glided on in profound peace, a long parenthesis in the broad page of history. But the deep feeling of popular indignation was working its silent and sullen way. No period of the world's annals contains such an instance as this, of rulers owing so

much to those they governed, yet refusing with perfidious breach of faith the payment of their debt of gratitude, and persecuting those who had fought and bled in their service, for making use of the very words and phrases which those same princes had so profusely lavished when begging the assistance of the people. Every one who raised the voice of patriotism was put under ban; imprisonment, confiscation, and exile were the lot of all who dared to whisper, that the bloody battles which had been fought and won, had any objects beyond the re-establishment of absolute power and aristocratic prerogative.

The wants and impoverishment of the nation went on increasing; for, as has been before explained, the public expenditures had augmented, while the sources of wealth and prosperity were closed, either in consequence of financial incapacity and the fostering prejudice with which aristocratic abuses were encouraged, or of a sordid and selfish policy in the various governments.

It was during this period of misfortune and misrule, that the intellectual power of the learned men of Germany was exerted in rousing and upholding the public spirit, in proclaiming the public discontent, and protecting the victims of arbitrary and aristocratic power. Spurning all considerations of interest, they joined together to cherish the flame of liberty, to combat the servile theories of passive obedience, and to bring forward on all occasions the recollection and the reproach of promises so sacredly made and so basely broken. It was mainly the professors and literary men, who like the early martyrs of the faith, opposed to the attacks of tyranny the heroism which braves the worst assaults of power, but will never swerve from nor compromise the holy cause of truth. A criminal excess of fanaticism,—the murder of Kotzebue,—was deplored bitterly by the friends of freedom, and eagerly seized on as a justification by the tools of tyranny. It was made a pretext for the Congress of Carlsbad (in 1819), and for the establishment of the Commission of Mayence.

This last Inquisition, in the worst sense of the word, was a memorable instance of oligarchical excess and impotence. Erected in manifest hostility to the progress of all improvement, supported by the influence of the despot monarchs and lauded by their satellites, it was held so execrable by the public at large, that its own members shrank from the ignominy of their functions, and their utmost efforts went to give disquiet to the moderate, and add fury to the violent. Germany had to lament the exile of some generous spirits, driven out by the pestilent

breath of this tribunal; but the nation had only to pronounce in its turn a sentence of annihilation, to exorcise this phantom of power, evoked by tyranny from the ashes of corruption.

Again a gleam of liberty arose in France, and shone broadly over Europe. Germany felt and rejoiced in the ray. Every portion of that nation which had acquired constitutions ever so imperfect, now urged its representatives to prompt and patriotic exertions for the removal of grievances and the consolidation of rights. Public opinion in Prussia, where its only organ is the voice of the individual citizen, freely declared its expectation that the government so active and penetrating, would soon crown its labours by the establishment of political freedom.

The principal events which have taken place since 1830 in other parts of Germany, are too recent and well known to require specific mention. One fact must however be borne in mind, as being of infinite importance as a precedent;—the dethronement of Duke Charles of Brunswick, and the succession of his brother William to the sovereignty, accomplished by the people, and ratified by the unanimous consent of the Germanic Confederation, in spite of the reciprocal guarantees for their crowns which bound these confederated sovereigns, and of the infraction of the principle of legitimacy the very essence of their pact. A new and mighty proof of the force of public opinion, which demolishes one by one every prop of a social edifice constituted in defiance of the tastes and the feelings of the age.

The differences of character, moral and intellectual, between the inhabitant of the north and south of Germany are very striking. The former, grave, domestic, given up to abstract studies and a literature as vague as it would be sentimental, seems evidently affected by the wild and often melancholy aspect of the country he inhabits, its gloomy pine forests and desolate heaths. The latter, inspired by a genial climate, picturesque scenery, and good wine, looks round a smiling nature and smiles in his turn; seeks pleasure in society, and is more animated by instinct than principle. With perfect consistency, both now advance towards the same object; but while those of the north march slow and heavily, their brothers of the south step briskly on. These latter, more prompt and impatient, more practical too, demand political liberty at once and before all things. The former, more systematic, and also more theoretic, moderate their longings, and pause on every step towards civil freedom, whether made by themselves or forced upon their governments.

The people of the Rhine countries, have watched the movements of France with uneasy ardour; but they seem by their

conduct to give the lie to the assertion that experience is lost on man. Instead of rushing to the goal with the speed that is so soon followed by exhaustion, they move on with prudent energy. The State of Baden has taken the lead in the general movement. In every one of its measures, since the French revolution of 1830, it has showed a daring coupled with a caution, which had been before imagined attainable by individuals, but incompatible with the long-continued exertions of a numerous assembly. The names of Rotteck, Welker, Duttlinger, Mittermaier, and Utztein, are revered as the staunch and steady advocates of liberty, not merely in the local sphere of their legislative efforts, but throughout Germany. This general gratitude is eminently due to them; for independently of their efforts to reform the home abuses of the State they represent, these deputies have never lost sight of the interests of the country at large.

The periodical press, while its freedom was at all permitted, distinguished itself in Germany. Even earlier than July 1830, the newspapers displayed in every line the workings of the latent spirit which governed the public mind. They almost all denounced the censorship under which they groaned; and the executioner forebore to lay a heavier hand on the victim, who cursed but could not resist him. With the exception of the 'Austrian Observer,' and two or three obscure journals which had but small circulation, the numerous active and courageous papers of Germany lauded the patriot representatives of the various states, pushed forward their opinions, and proved by the uniform harmony of their exertions, either an astonishing instinct of individual consistency, or a common principle of management.

It is nineteen years since the Congress of Vienna promised that the Diet would promulgate regulations to secure to all Germany the right of giving free expression to their thoughts. The Congress of Carlsbad, in 1819, blew this air-formed promise back into its original element; and the infamous Protocol of the Diet of Frankfort of the 28th June 1832, set the seal upon the long-indulged hopes of freedom throughout Germany. This frightful and well-known document abolished not only all right to liberty of discussion, either by printing or from the tribune, but revoked the law securing the liberty of the press passed by the Grand Duke and Chambers of Baden in the December preceding, and put an end for ever to all chance of political enfranchisement except through some giant exertion of popular force. The recent publication of the results of the congress of despot ministers, held at Vienna in 1834, was scarcely wanting to complete the measure of tyrannical exaction. 'Constitutional

freedom' and 'representative government,' as applied to the German States, are now but bye-words of scorn.

After this sketch of the state of public feeling, it is important to examine the fundamental principles of the existing public law of Germany.

No sooner was the Confederation of the Rhine dissolved by the victories of 1813 and 1814, than the treaty of Paris (30th May, 1814) stipulated;—

That the states of Germany should be independent, and joined together in a federal union.

The 32nd Article of that treaty decreed the assembling of the Congress of Vienna, and there the question was fully and definitely entered upon.

The first project of federation was presented by the cabinet of Berlin, 13th Sept. 1814. Its professed object was to secure the unity of Germany, by means of a constitution in which the representatives of the great German powers were to form one chamber, those of the smaller States another. Bavaria, taking the lead in the opposition to this measure, was energetically seconded by all the minor States; and the abandonment of this insidious attempt at the establishment of Austrian and Prussian domination, is a proof of what may at any time be effected by unanimity among the powers of the second class, against the combined policy of the overgrown despotisms.

Between the date of this plan and the act of the 8th June following, not less than a dozen different projects were discussed. And it was only the return of Napoleon from Elba, which effected the signature of the existing Federal Act on the 8th June 1815. It was presented by Austria, and chiefly based on that whose rejection has just been stated. This Federal Act was confirmed in all its stipulations by the sixty-fourth paragraph of the final Act of the Congress of Vienna, signed by all the contracting parties at the Congress, and consequently guaranteed by the principal powers of Europe.

The Federal Act consists of Nineteen Articles. The First to the Eleventh inclusive, relate to the organization of the Confederation. The remaining articles concern the internal and administrative relations between the States. The fewness of its articles and the precision of its dispositions, are more deserving of praise than the principle which presides over the execution of the document. But its dispositions appearing nevertheless insufficient, the Confederation established a new Conference at Vienna; where was signed, on the 18th May 1820, the second fundamental pact, known by the title of 'Final act of Developement and Consolidation of the Germanic

Confederation.' (*Schluss Acte der Wiener Ministerial Conferens*). These two Acts, and the subsequent decrees of the Diet of Frankfort, more particularly those which emanate from general sessions of all the representatives, are to be considered as the public law of Germany, as regards its general and internal relations properly so called.

The Germanic Confederation consists of thirty-eight independent and sovereign States*. The four free towns are comprised in this number. They enjoy and exercise all the inherent rights of sovereignty, although the Federal Act does not give them the appellation of sovereigns, which is reserved for the thirty-four monarchies, princedoms, &c. (Arts. 4 and 3 of the Federal Act.)

The towns of Hamburg, Lubeck, and Bremen, have revived the superannuated institutions which under a democratic form concealed a power wholly aristocratic and subservient to the interests of the patrician families. The judicial power, for instance, is not separated from the executive, yet it is asserted to be independent. The four free towns have a Common Court of Appeal which holds its sittings at Lubeck.

Frankfort is the only town that has established within itself a constitutional representation; which, consisting of two chambers, is, however, subject to the inspection and in some degree to the control of the Diet. A late regulation has established the publicity of the debates in the Chambers.

The sovereigns of the Confederation, freed from all their ancient ties of feudality not only as reigning princes but as private individuals, are in all respects the equals in rank of the other monarchs of Europe. As heads of their several families, the greater part have regulated their duties and rights by laws of succession, the inheritance of the throne being secured to legitimate primogeniture. In Bavaria and Wurtemberg females can inherit; and in all the States, the children of an unequal or derogatory marriage are not excluded, unless some family statute or law of state pronounces the prohibition.

With respect to the various mediatised princes, who form so peculiar a feature in the aristocratical picture of Germany, the fall of Napoleon did not restore to them either the rights or the independence of which they had been despoiled for the advantage of their fellow feudatories, who had been more submissive or more servile to the sceptred soldier. Their vehement pro-

* There were in the first instance only 37 States members of the Confederation; but at the request of Great Britain, the Prince of Hesse-Homburg was subsequently received as a member, in right of his petty principality.

tests and claims obtained them nothing beyond the privileges contained in the Articles 6 and 16 of the Federal Act, confirmed by the Articles 53 and 63 of the final Act of 1820 (*Schluss Akte*). The hope held out by Art. 6 of the first mentioned Act, of their obtaining some voices in the Diet, was not realized.

By Article 14, the sovereign members of the Confederation determined the legal and permanent rights of the mediatised princes and nobles. It was ordained, first, that they and their families should belong to the higher nobility, having the right to sit in the upper Chamber in such countries as possessed constitutions, and to form a portion of the ancient Estates wherever these last were still in vigour. Secondly, that they were to enjoy the rights of parity of birth * (*Ebenbürtigkeit*). It was this right, with the expectations founded on their acceptance of the term, of being admitted to form alliances with the sovereign families of Europe, which was to these mediatised nondescripts the most precious of the privileges saved from their political shipwreck. But the sovereign houses appear to have taken a different view of the question. The mediatised having become subjects, and being announced as belonging to the higher nobility, not superior to it, are held to have no pretensions to alliance with the blood royal of any sovereign state, more particularly with those of Bavaria, Wurtemberg, or Electoral Hesse, where the family statutes make the marriage of every member of their families dependent on the permission of the respective sovereigns.

But the mediatised are in many instances cutting the question short. Scarcely twenty years have passed since the sealing of their political fate, and already princes and princesses, counts and countesses, are virtually abandoning their pretensions, and, urged on by love or sentiments less sublime, are marrying fast and frequently with the inferior classes of society, too happy to barter the honours of a name for the more solid advantages of wealth.

Thirdly, the Germanic Diet by two resolutions has decreed, that the mediatised families should bear titles analogous to their rank, viz., princes that of Highness, and the heads of the families of counts that of Excellency (*Erlaucht*).

Fourthly, the before-cited Article 14 of the Federal Act declares, that the heads of the mediatised families should be considered

* This privilege is of most difficult definition, the jurists and publicists of Germany not being by any means agreed on it. In the times of the old Germanic Empire this *Ebenbürtigkeit* was understood to mean equality of birth between all the princes and great feudatories of the empire, the members of which intermarried together, inherited from each other, &c.

in the various states of the Confederation as the first peers (*Ständeherrn*). That they and their families should continue to be the most privileged class. That they might chuse their residence in whichever of the States seemed best to them, provided that it was at peace with that of which they were the subjects. That they should be free from the obligations of military service, and that though subject to the laws of the country, they were to enjoy various privileges regarding territorial and judiciary rights; the whole, nevertheless, according to the laws of the State and under the sovereign control of the government; and finally, that they were to be *the most favoured as regards the taxes*, and should continue to possess the revenues and pecuniary advantages which they enjoyed before their mediatization, such as *cervées*, tithes, fines, and divers other payments, all dating from the 'good old times' of servitude and feudal tyranny. While the sovereigns were re-assembled at Vienna, the air still vibrated with their declamations against the despotism of Napoleon, and with the loud appeals made to their people in the name of national independence and constitutional freedom.

Germany waited for the blessings thus promised. The newspapers echoed the song of hope and joy. The sacredness of princely promises and monarchs oaths, gave a solemn tone to the expectant ardour of the people. The Congress of Vienna executed the Federal Act in a sense to all appearance wholly national, and seemed willing to correct the evils which the minute subdivision of the country had hitherto caused.

Every German subject of the confederate states received full authority and privilege, (see the 16th and 18th Articles of the Federal Act),—

First, to remove his residence to any other State, to establish himself and acquire property therein, without being subject to the payment of any taxes other than those common to the inhabitants.

Secondly, to enter into the military or civil service of any other State of the Confederation, without losing the rights of citizenship in his own.

Thirdly, to be free from the payment of the tax called *taillon* (*jus detractus*).

Fourthly, to belong to any sect of Christians whatever, without prejudice to his civil and political rights.

Fifthly, to enjoy the free navigation of the rivers of Germany; the duties, and the police establishment, to be uniform on the whole of their course. (Federal Act, Art. 19, *Schluss Akte*, Art. 109, conformable to the 5th Art. of the Treaty of Paris.)

Sixthly, to enjoy the liberty of the press according to the

regulations to be adopted by the Germanic Diet. (Federal Act, Art. 19.)

Seventhly, the enjoyment of legal independence, by which every subject of the States of the Confederation might appeal to the Diet. (*Schluss Akte*. 29. 63.)

Eighthly and finally, political liberty was promised to all, in the already cited words, important to the people's rights and damning to the character of their rulers,—‘In every state of the Confederation there shall be established a representative constitution.’ It will be admitted, that these solemn enactments embodied all that could be desired by rational men, had but the written promises been acted on.

Immediately after the Congress of Vienna, the sovereigns were filled with terror, by the spirit of liberty which Napoleon had plunged into lethargy and they had themselves recalled into life. To it succeeded the spread of religious mysticism; and both formed the excuse for the iniquitous pact called the Holy Alliance (September 26th, 1815), which has traced one undeviating line of hypocrisy, injustice, and despotism, from that day to this.

The advantages promised under the first four heads above stated, have since fallen to the share of all the States of the Confederation; an acknowledged triumph to the principle of toleration and individual liberty. It is now only required to examine the promises which have been made and broken.

It has been shown how much the conflicting pecuniary interests of the various States embarrass the well-being and the commercial interest of the whole. By considering the engagements entered into at the Congress of Vienna relative to the free navigation of the rivers, it is easy to judge if the recriminations of the people are well or ill-founded, and whether they or their rulers are morally responsible for the commotions and bloodshed which have followed the infraction of those engagements.

Relative to the long-looked-for liberty of the press, the Diet of Frankfort took no measure whatever till 1819. Awakened from its slumber on the 20th of September in that year by the loud demands of the public voice, it at length did announce—what?—a positive law of repression against what it denominated the abuses of the already existing right. This enactment had the censorship for its foundation, intolerance for its spirit, and five years for its duration.

That term expired, the same regulations were renewed in 1824, in what spirit of amelioration and with what chances for the people, may be judged from the fact of their being now established for an indefinite period.

The infamous Commission of Mayence already noticed, which was also established by the protocol of the Diet of the 20th Sept. 1819, proved that however inactive, timid, or treacherous that body might prove itself when the interest of the people or the cause of liberty was at stake, it did not want vigour or violence when it had to act on the real or imagined interests of the princes.

The provisional tyranny thus created and confirmed, continued until July 1830, when the frightened censorship spasmodically relaxed the grasp with which it heretofore held down free thought. During this long interval of twelve years, only one exception was found among the many sovereigns, to lighten the load that lay so heavy upon liberty. That was the King of Wurtemberg. Almost on the very day of two memorable acts of the Diet of Franckfort, this monarch gave a constitution to his people, 25th Sept. 1819; and he maintained it with honourable energy, in spite of the remonstrances and threats of the three great despotisms, who even by recalling their representatives from his court could not shake his perseverance. When the protocols of June 1832, so often alluded to in this Article, were promulgated, the eyes of all Germany were turned on the King of Wurtemberg. But they only saw him shrunk into the dimensions of a tool of despotism, frightened at the shadow of his former liberalism, and ready to enact whatever violence might be ordained, against the rights which he had so loudly pledged himself to uphold.

Bavaria, under its present King Louis I, had for a time good reason to expect equal security with its less populous neighbour, for the constitutional rights established in May 1818 by his predecessor, Maximilian Joseph. But the mixed and unsettled character of the reigning monarch has an unfortunate, and, as it may turn out, a fatal influence on the newly-formed institutions of a country, whose people are not yet fully imbued with the holy truths of liberty. A half-and-half liberal, a bit-by-bit reformer, a third-rate poet, and essentially a bigot, Louis I. was not likely to walk long in the ways of toleration, or sound politics. The hopes excited by the early years of his reign have been of late wholly abandoned; and the influence of Austria, (particularly since the elevation of his son to the throne of Greece), has established this sovereign of the most important of the minor German powers, as a subservient vassal of the Holy Alliance.

Some expectations were for awhile entertained of firm and liberal conduct on the part of Leopold the present Grand Duke of Baden. But he too has proved false to the people's cause,

and relapsed, like his brother monarchs, into tame and renegade servility. Other names might be selected among the German sovereigns; but only as so many marks for reprobation. They had better be passed over in silence, or lost in the common contempt for the mass of instruments, by means of whose mediocrity the bolder and bigger tyrannies are working out their designs.

Another branch of moral movement which invites observation, is the widely-increasing and fatal habit of emigration which is every year aiding to depopulate the German States of thousands of their most industrious and independent citizens. For it is not, as in Ireland, the beggar or the adventurer who thus voluntarily expatriates himself from his father-land; but families of substance and worth, worn out and disgusted by a hopeless struggle against oppression.

There is, however, some consolation to be found in the indignation of liberal Europe against the brute power which tramples on German liberty, and in the sympathy of the several nations whose governments have abandoned that doomed country to the gripe of the great despotisms, driving to despair and banishment the most energetic and respectable of the inhabitants, and delivering the remnant of active patriots bound hand and foot to a dismal and brutifying tyranny. The subservient rulers of the small States, obeying the dictates of those despotisms, desire nothing better than the removal of the spirited and intelligent thousands who abandon their homes and their hopes for ever. Debased as are those monarchs and their minions, they would rather trample on a desert covered with paupers, than rule over a prosperous soil cultivated by freemen.

The influence of Rotteck and others of the leading patriots has been vainly exercised to repress this fatal tendency to emigration,—the parallel in some respects to the English system, of forcing the natives to expatriate themselves, for the advantage of a party tyranny at home. The evil is certain to spread wider and wider, until there is some prospect of political redress. The sluggish but resolute nature of the German cannot live on hope. It requires the solid and unimaginative aliment of fact. Not are its decisions likely to evaporate like those of a more vivacious and volatile people. When a German is roused to vigour or excited to enthusiasm, he is self-willed and obstinate to an extraordinary degree. When he has once torn away the associations that bind him to his native soil, it would be as easy to replant one of the oaks of his own forests. And grievous indeed it is to see such glorious bulwarks of free principles, so totally dismantled and in a moral sense overthrown; while the governments of France and England seem to look on, as though

paralyzed, at the prodigious extension of power thus given to their deadly enemies.

Even till the promulgation of the celebrated Frankfort protocols two years ago, high hopes of English and French support were entertained by the German people. But the apathy displayed by the two governments on that occasion, soon dissipated the illusion. That they connived at those liberticide decrees, is scarcely doubtful. Their best advocates admitted at the time, that 'they gave negative answers' to the inquiry put to them by the despot powers, as to whether they would interfere. And what a fatal affirmative did those negatives compose! Every subsequent step of the despots has been based upon that foundation. But it is no matter. The palladium of European liberty is a rolling stone; and it has gone too far, and moves too fast, to be stopped by bigot Kings or besotted cabinets.

It is vain to represent, as has been more than once essayed by would-be liberals, these and other measures as mere German questions, or to preach in these days cold theories of egotism and insulation. The science of politics is widely expanded of late. If statesmen have not a higher mission than of old, they are at least bound to see with an enlarged vision. Other systems than those which held back the social world, are now unfolded. Truth is broader and far clearer than it was. Almost every man can now understand a few plain maxims, which unravel a web that is no longer complex or intricate. The free countries have discovered a common interest, apart from all doctrines of selfishness.

The public is often told, that Germany is populous enough to work out her own relief against the despots. Populous enough she is. But England, in sanctioning the distribution of her territory into dozens of small States, helped to hand her over, gagged and manacled, into the clutches of the three despot powers. Germany is at present a country of shreds and patches. It is impossible for the various sovereigns, much less the various peoples, unarmed and unorganized as they are, to consolidate any bond of union able to resist the compact power of either Austria or Prussia alone, to say nothing of Russia. What then could these petty mockeries of nationality and sovereignty, effect against the confederate hordes of the triumvirate? It is said, that Germany should not blame France or England for her present state. But if they sanctioned the broad surface of political Germany being cut into a harlequin's coat, ought they not now to protect the living body of intelligence which it may be said to cover?

Had England and France so acted, very much might have been before now accomplished in the cause of constitutional freedom. Its subtle spirit has penetrated into the hearts and minds of the people. The very rulers were, as before stated, in several individual instances unable to resist it. Many of the small states and slender monarchs, vied with each other in proofs of enlightened feeling. The universal sympathy with, and noble tributes offered to, the Polish refugees, with various minor acts of liberalism, showed what the nation and its rulers were disposed to do. But if abandoned to the power of Austria and Prussia, and left to chuse between submission and spoliation, who is to blame,—the several puny parodies on sovereign power, or the leaders of the two great free and liberal nations of Europe, now all powerful, if they would but dare to be so!

The result of this inaction on the part of the liberal powers, and of the untiring cunning by which the despots have cautiously gone on sapping the foundations of German freedom, have by degrees disheartened and paralyzed the leading patriots. A morbid feeling of resignation seems to have seized on them; or at best, they only hope for a general war, in which something good may turn up, but which can add nothing to the existing evils. These patriots seem convinced that the people of Germany are yet far from having reached that salutary pitch of feeling which forms the safe stepping-stone to general revolt. And it is therefore very improbable that any sustained and effectual armed resistance will take place, against the wide-spread thralldom which is submitted to with dogged indignation.

There is still a deep shade of feudal tendencies left in the German character, a leading passion, almost an instinct of the people, is attachment to the monarchical principle. Any extreme measure against even their present sovereigns, is repugnant to the prevalent feeling. The people are not generally imbued with a just knowledge of political rights, the love of which might overcome their prejudices, and their occult veneration for the power that misgoverns them. To rouse any whole people to arms, some strong passion must be excited, to stir up the Germans the very strongest must be acted on. Religious feeling was sufficient at the time of the Reformation, hatred of France did miracles twenty years ago, but in both of these great movements, be it remembered, they acted with their princes. Attachment to one of their sovereigns, and the ardent longing for a national unity, would be most likely to do the same to-day. Not one of the small States has a chance of extorting from the great despotisms that independence which the petty sovereigns, one and all,

signed away the day on which they ratified the Frankfort protocols of June 28th 1832. Nor would it be worth while for France and England to interfere for such an ineffective object, as the freedom of one out of eight-and-thirty states or towns. It is of small import to them to preserve one grain of seed, when the whole harvest besides is to be lost. It is not the mere nominal existence of constitutional principles, that France and England want to maintain in Germany. They want a great barrier against despotism. Poland is the advanced post; Belgium the in-lying picquet; and Germany is the ground which wants occupying between, to give union and effect to both.

It would be worse than useless to attempt, by any fractional efforts, a counteraction of the designs of the great despots. Germany must either be wholly enfranchised and re-modelled,—or abandoned to its present state of fragmental slavery, for the remote chance of Austria and Prussia falling out and fighting for its spoils.

To bring about that consummation is hardly to be expected from the present governments of France and England. But for the present, and to keep within the circle of *juste milieu* capabilities, the evident policy of England and France would be to encourage some one of the small sovereigns to resistance against the fast accumulating decrees of the Diet, which it is certain more than one have submitted to reluctantly. The prospect of increased dominion, and the glory of redeeming his country and his name, might be enough to rouse some one of those princes to action; but until some individual is so chosen and supported, not one will be found to risk, on his own account, a speculation in which the odds are thirty-three to one against him. The effect on the people would be electrical. The name of a recusant sovereign, would be a tower of strength. To cheer on the Germans by the influence of mere abstract theories,—by love of liberty, hatred of tyranny, or the like,—would be labour in vain. They do not love freedom for its sake, but for their own. They long for its practical application, fashioned to their tastes and wants. They must have a tangible rallying-point and a positive impulse, which they can feel as well as reason on. One of their native princes must afford the first; and the unity of Germany must be the object that shall excite the other.

ART. XI.—*Report from the Select Committee on the House of Commons Buildings, with Minutes of Evidence taken before them. Ordered to be Printed, 13 May, 1833.*—Parl Papers

IT is a notion of some philosophers, that there is no evil; that what goes by the name, is not a principle of ill, but the negation of some good arising from the presence of another good, then and there in the ascendant, and which is incompatible with the existence of its rival, as they respectively require different circumstances to develop them. Furthermore these same philosophers suppose; that the sense of inconvenience or want is the necessary forerunner of the good desired, the yearnings and strugglings for which produce it; and that as in physical so in moral nature, the battle is to the strongest. However this may be, an event has come upon the land by the help of no one knows what, which appears likely to father a great good. The aching tooth that interrupted all enjoyment, is extracted by a sudden wrench, in spite of the fears of him who suffered most from its vested interest in his mouth. The associations that hung about his decayed member,—the bone that had been linked with his existence from early childhood,—the partner of his joys and sorrows, which accompanied him in the labours of his business, and participated in his pleasures,—are all at once dissolved by the carelessness of some slut that forgot to sweep her hearth-stone. And now he must have a new tooth, which shall perform its proper function of mastication, and prepare his food for the process of digestion. Already he begins to rejoice that his boring friend is gone, to trouble him no more; and that its place will be supplied by one which will save him from pain and trouble, and give him health, ease, and happiness. The calamity dreaded in its coming, like a storm passed away is found not only to do the work that could not be determined upon,—but to drive away disease and unhealthiness, and give space whereon to place more commodious appliances.

Where the opinions of many were to be made to concur in a point on which peculiar fancies and projects are most apt to find play, such as the building of a new House of Commons,—it was perhaps vain to expect that such concurrence should ever be obtained, without the help of an accident which must force a decision. Fortunately for the country, the late fire has furnished this help, and all that is necessary to improve the occasion. In the usual order of things, it might have been thought sufficient that the new structure should be an improved substitute, barely meeting the more obvious defects of the old one;

of which the limited space was the most prominent. But since the old building is burned to the ground, and an entire edifice is to be erected in its stead, it would be an unpardonable short-sightedness to neglect to comprehend in it all that shall be necessary to make the new House of Commons fit for the purposes, to which such a building should be applied. The last thirty years have furnished ample experience of the nature of these purposes, and the inadequacy of the old arrangements to accomplish them. It is not, therefore, sufficient to consider where a building as nearly as possible the size of the old House should be placed, nor to make it as nearly as possible like it in form and size; but the entire arrangements of the House for the despatch of business require to be reviewed.

Looking at the matter in this light, the calamity may be regarded as peculiarly fortunate;—for in consequence of the repeated remonstrances that had been urged by the working Members of the House, the late government had in some sort promised to attend to it. The labours, too, of the Select Committee of 1833 had gone far to fashion the subject in most people's minds; though the Members who sat on that Committee seem to have gone no farther than to puzzle themselves. They submitted the evidence to the House itself, without offering any offspring of their own meditations. Fourteen witnesses were examined, and there were nearly as many plans. All of the witnesses, except Mr. Croker and Mr. Wason, were architects; but these gentlemen, in common with the other witnesses, produced plans which are given in the Appendix. There is one fault running through the whole of them. They were made expressly for the confined spaces round about the deceased house, or to occupy its site. With the exception of Mr. Allen's plan, they contemplated no provision, or very little, for committee-rooms and other subordinate offices. In consequence, they are unsuitable to the present juncture. It would be injustice to the artists to suppose, that with a clear stage they would have proposed such plans. Though it is fortunate that events have stopped the career of these parties, the evidence of this Committee, and the plans, will be of great use in the preparation of a List of Requisites, and forming some notion of the general character, in style, structure, shape, and size, of the new building.

In a former article the necessity of providing for a subdivision of the labours of the House was enlarged upon. It is unnecessary to add much on this point, after the recent strenuous expositions on the importance of deliberation. Constituted as the popular assembly now is, it is not possible that measures

can be well digested, or that they should advance as rapidly as the pressing exigencies of the times require. Nor can the office of control and superintendence which is vested in the House of Commons be effectually provided for, without the appointment of standing committees, which shall with each recurring session review the transactions of the intervening period. The Members too of these are entitled to some personal consideration. It is not only impossible that they should individually perform all the functions of the entire House,—watching and canvassing each bill, auditing the voluminous estimates, and preparing and making up their minds on the matter of the many motions constantly brought before the House,—but that they should take a part in what is technically termed the private business, and attend on a variety of committees. All are agreed that there should be preparation, inquiry, and debate,—that nothing should be done without caution and deliberation,—but the whole gist of the difficulty is how this shall be secured. Supposing the House to be composed of the *élite* of the nation, the fittest men that the utmost sagacity could select for the national councils,—it would still be necessary that some machinery should be contrived to secure all the aforementioned conditions—viz. preparation, inquiry, and debate.

It is not too much to say, that the arrangement and consolidation of the House is not less important than the choice of Members. There must be combined a numerous body, with the workability of small bodies, the energy and popular character of a National Assembly, with the caution and deliberative character of Cabinet Councils, the fleetness and varying character of the first, with the caution and disciplined aptitude for business which attach to the second; a comprehensiveness and largeness of principle, with fullness and minuteness of detail. A powerful machine, of most force,—calculated at once for the most vigorous and gentle operation, as the different occasions shall demand,—of wondrous power, but composed of a multitude of parts,—adjusted to a thousand special functions, yet combining for the production of one grand general effect. The building of a new House of Commons is not then a question of four walls placed here or there, built by this architect or that, in this or that style, but the question by what machinery shall the legislative functions be best performed.

Having considered the general objects to be compassed by any scheme of parliamentary arrangements, it remains to be discussed what sort of building, and what arrangements are required.

These considerations are, as to the external position and circumstances,—

1. The Site.
2. Centrality as to the town generally.
3. Centrality as to the residence of the Members.
4. Position with reference to the Lords.
5. Facility of access, with reference to locality.
6. Facility of ingress and egress, with reference to the different duties of Members—its intercourse with the Lords—its own offices.

As to the internal character and arrangements,—

1. Form.
2. Space.
3. Sound.
4. Warmth.
5. Ventilation.
6. Facility of taking divisions.
7. Light for day sittings.
8. Capability of admitting the whole number of Members.
9. Not too large for a small number.
10. The whole House to be under the eye of the Speaker.
11. The whole House to be under the eye of all the Members.

All these points refer to the principal construction, the place where the whole body of Members shall assemble; but it is necessary to consider also the subordinate offices which such a building would require.

Besides a Place of Assembly for the Lords and for the Commons, there should be for each a hall of conference, larger committee-rooms, smaller committee-rooms, lobby for Members, refreshment-rooms, and all the other accommodations which the Members have usually had; and which men need, whose whole time, morning noon and night, may be devoted to attendance at the House. There should also be accommodation for the reporters, out of the House as well as in the House; and if strangers are to be admitted at all, accommodation for them also; and in addition to all these, the Speaker and the chief clerks, who have certain stated functions to perform, and whose duties demand a close personal attendance, must have residences on the spot. Indeed, where the records of the nation are deposited, the rule in force at the British Museum should be observed;—some responsible officer should always be on the spot or in the neighbourhood, to give directions in case of any emergency.

A nation ought not to begrudge the expenditure that would make a building of this sort fire-proof; especially as the nation does not insure.

The number of the Committee-rooms, larger and smaller,

must depend on the scheme of arrangement adopted. If the plan of standing committees be a proper one, then there is necessary not only one large room to receive the entire body of the Members, but sundry smaller rooms of considerable dimensions for the use of the different committees, besides a number of still smaller rooms for the accommodation of persons in attendance on these committees, and for the use of the officers attached to them. Thus it would be necessary to have for each committee, a library and record-room, retiring-room for members, another for reporters, a third for witnesses, a fourth or anti-room for the messengers in waiting,—and perhaps a fifth or lobby for strangers.

The only plan, among the many appended to the Report, which contemplates any addition to the committee-rooms, or recommends an arrangement that would both be desirable and feasible now, is that of Mr. Allen. The disposition of the committee-rooms is excellent. The House is made the central point; and the committee-rooms are made as nearly as possible equidistant. There is also provision for more, but according to the view of standing committees herein attempted to be enforced, the plan should be extended, which might be done without difficulty or destroying the symmetrical proportions of the structure. His plan provides for eight committee-rooms on a floor, or thirty-two in the whole. The arrangement is altogether the most compact, and a model for adoption in that respect. To give it full effect, there is required more breadth and depth than is allowed by the site for which it was designed; and there is also needed some provision for a communication with the House of Lords, either by a gallery or intermediate chamber.

One half of the public have gone about to suppose, that it would be a ravishment of the Constitution to put the Legislature anywhere but at Westminster. Originally the parliament sat at Westminster, because the king lived there; it was on the spot whereon his palace stood. For the same reason the courts of Law sat there. But though all this has been changed, and the king lives where it pleases him, at Windsor, or Brighton, or St. James's, or at Buckingham Palace, the parliament has ceased rambling with him; and it is right it should be so, because it better suits the convenience of the people for whom these institutions are designed, that the offices should be fixed to one spot. But, for the same reason too, the spot should be changed if it ceases to be the most suitable. Westminster has some things to recommend it; it is not too much out of the way; not more so than St. James's Palace, nor near so much as Buckingham Palace. But there is an overpowering objection,—

there is not space for a proper building. There wants not only space whereon to erect the building, but space all round. If constructed for the objects above indicated, as it would require many rooms, and a great deal of light,—a quadrangle, with lights on the other side, would be the best form. The space at present destined for the National Gallery, with the ground behind occupied by the barracks and workhouse of St. Martin's-in-the-Fields, does not appear to be ill adapted. It should be such a spot; there would require to be a wide street all round with an open space for the carriages of Members. But wherever the building may be placed, ample room and verge enough for a structure adequate to the varied purposes of the Legislature of a great nation should be secured. There should not be left the opportunity of urging as an objection to any future demand for abundance of accommodation, that the work is done and the cost cannot be again incurred. The first object should be to prevent any future impediment to the public business. Let the House then pass resolutions as to the general nature of the objects to be accomplished, and afterwards cause the plan to be the subject of competition, by all the skill the country can supply, and after that, let the site be determined upon. It must be known what sort of building is wanted, before a spot can be selected. Do not first select the ground, and then narrow the dimensions of the edifice to the allotted space.

If open spaces were in abundance on which a building of any conceivable dimensions could be erected, — then there would be wisdom in selecting a site first; but still before the building was to be commenced, it would be necessary to discuss also the uses to which it was to be applied. In the course of Mr. Allen's examination before the House of Commons, somebody suggested the Ordnance Office in Pall Mall as a proper spot. There is a good deal of space behind; some of the houses adjoining are now in the possession of the Crown, and others could be purchased.

Perhaps there is no building of any sort, which calls for a higher degree of skill in the adaptation of all its parts to the general object of the whole, and where so many obstacles are found to reducing them to the smallest degree of mischief. In a church, the voice of the preacher may be helped by a sounding board, and the pulpit may be put where the voice may most easily be made to reach all parts of the building. But in the House of Commons the Members speak from every point. Again, ventilation is a prime object. In a church or other building where the people are assembled only for a couple of hours, the air does not imbibe so much noxious matter; warmth, too, may

be more equally communicated; and besides, people may go clad for the occasion. In theatres the same difficulties do not arise. The interest excited by the performance will carry off the attention from the confined atmosphere; but the graver duties of Parliament, except in a few instances, have not the power to excite so deep an interest. All the difficulties, however, might be overcome, if the Members *were less numerous*. The British House of Commons is the most numerous representative body in the world; perhaps since the world began, there has been none like unto it.

It is physically impossible to hold within a building that shall be fit for the purpose of deliberation, the present number of Members. Does not this suggest the getting rid of the excessive number? Could not five or four hundred do the duty as well? Why should any third-rate place send two Members, while other places send none at all? But if the quantity of idlers is useful only to distract the attention of workers, and to cram a house unfit for its uses,—the sooner there shall be a casting out of the excess, the sooner will other reforms be likely to follow.

There might be use in going to other parts of the world for examples as to the effect of different structures, but for the reason stated, no safe example can be found. The first condition is wanted,—a moderate number of persons. The excess in this particular, produces all the others. Sight, sound, ventilation, warming, everything would yield to the control of skill, if the size of the building could be smaller.

Leaving to the architects to accomplish the combination of all these essentials of comfort and convenience,—the sound, warmth, ventilation, which are dependent on the size and shape of the building,—there are sundry other matters in which the public have a peculiar interest, of which stands foremost the facility of taking divisions. Notwithstanding the mock attempt of the last session under the smothering patronage of the Whigs, the thing is possible. It might be done in the House, as was before recommended in this Journal, by giving to each Member his own seat in the House, and recording whether he was there or not when the division took place. In the French Chambers, the Members have their appropriated seats. This consideration is paramount. Let the public know what the Members do, as well as what they say.

There has been an argument much employed in the course of the discussions on the building of the new House of Commons, which after the suggestions offered by one or two witnesses before the Committee on the subject, can never again be put forward in good faith. To wit, that the House which should be

large enough for the whole body, would be too small for the indifferent attendance usually given by Members. Saying nothing of the indecency of this excuse to the public whose representatives Members are, and leaving out of view that if committees be appointed in the manner suggested, all the dry business of the House, that which though very useful is most neglected, would henceforward be done in committee,—there is no ground for the excuse, for it has been shown by one or two witnesses, that by the contrivance of screens to shut out the gallery appointed for Members, the body of the House might be compacted, and so rendered sufficiently small.

That the whole House should be under the eye of the Speaker, as well as within the view of all the Members, is most important; both for the preservation of order and fairness in the conduct of debate, and from the manner of debate in use in the British assembly, which is from the seat of the Member, and not as in France from a tribune or pulpit appointed for the orator. This, coupled with the size required for the number of Members in the English House, is a cause of great difficulty in the matter of shape; and the suggestions in the evidence are most various and perplexing. Some recommend the form of the ancient Chapter House,—which was circular, with ascending seats. This would be a good plan if the numbers were moderate; but the space that the House would occupy if the building were of that form, would defeat the object of hearing and seeing; besides, though the Members could all see one another, the Speaker could not see the whole body of the House. The building devoted to the French Chamber of Deputies is semicircular; in this the Speaker or President can see everybody, and with the exception of a few persons, all can see each other, and even these have only to turn their bodies for the short period the Member is speaking, to obviate the difficulty. But then again another difficulty in hearing arises; the Speaker and the Clerks of the House must hear, and the House itself must hear, and the reporters must hear; but the point or *focus* of attention being moveable, it is difficult to adjust all the contending elements so as to secure the object. The size, the shape, the state of ventilation, the degree of warmth, the numbers present, and the respective positions of the different classes of auditors, may all be at war with it. In the French Chamber this difficulty is in a great measure obviated, by the speaking being all directed from the same point, to which the attention becomes habituated. The President sits behind the orator, and the reporters near him. Still the size of the building, and its height, frequently prevent the sound from being distinct and clear.

Mr. Savage appears to have given the most attention to these different requisites, and he has treated of them systematically. Still there are some points spoken of by other witnesses, which require to be considered in perusing his evidence.

There is one point, which for its poverty and importance is left to be last considered in treating of the internal requisites of the House. The accommodation of Peers will doubtless be taken care of, and the evidence referred to shows a marked regard to the convenience of reporters, while there is no reduction of the accommodation usually given to strangers, but there is no thought for *women*. Is it that English society is of so coarse a kind, that it is impossible to admit them, for fear of improper levities? This is the true reason. The Members want to talk bawdry, and at the same time do not want their wives and daughters to witness them at their amusement. There is no shrinking about the assertion at all, the torrents of *double entendre* and indecent chuckling, which might be brought on it pleasure by anybody who, for instance, would present a petition from half a dozen women to the House, shows perfectly the reasons that exist in England for the 'separation of the sexes.' The preponderance given to the agricultural classes,—the *Justice Midases*,—may probably have been in part the reason. There must be something rotten and filthy, or stupid and dull, where women are excluded, it may be in the men or in the matter, but there is something wrong. The French, more civilized, not only admit women into most of the tribunes, of which they have many, for the use of strangers, but they have a tribune or gallery for their special use, and the name is in accordance with it,—*Tribune des Dames*. So far from women being the cause of improprieties, it seems they flourish where women are not. The general lack of conversation, and the want of elevation of feeling among all classes, arises from the want of mutual participation by men and women in the same discussions. Whom does a man bribe now, to get another's vote, but his wife? In England it is the wife who counsels prudence, or sacrifice of principle, she is the last to buckle on her husband's armour. There ought not to be any public assembly where accommodation for women, in a prominent place, is not secured. Men will not dare to be shabby, and servile, and silly, if there are women to see the meanness or hear the folly. But in England the case seems to be in the opposite direction. The Courts of Justice provide little accommodation for women, indeed from some of them they are expressly excluded. Look at the Courts at Westminster, the Court of Chancery, the Vice Chancellor's Court, all of them are contrived on the principle of

exclusion. What should be the exception, is with us the rule. The question with our governors, is not why the freedom should be denied, but why it should be granted. The reasoning is inverse to the right; like the notion lawyers have of justice. It flows, they say, from the throne; it is its prerogative; a sort of waterspout descending from above, not springs rising from the bosom of the earth. They cannot conceive of justice as a popular sentiment, and common natural right. It is a boon, a gift of power, to be withheld or conceded as the monarch shall chance in his wisdom to desire. Times are mending. The worse is coming, that will be the prelude to the better.

Wherefore talk of these things now? The Whigs have patched up the old quarters, before judgment could be given on the preferable scheme, and the Whigs have been dismissed by the Grand Regulator. It is in vain to expect that the Tories will go far to find the best. But still talk of what is good. The scheme of Toryism will be to narrow the power of the Legislature, rather than to extend its usefulness. Let all things be; there is good in evil, if men will not be slothful, but make the magnitude of it the measure of their exertions.

ART. XII.—*Report from the Select Committee on the Law relative to Patents for Inventions.* Ordered by the House of Commons to be Printed, 12 June, 1829.

FOR more than two centuries the law on the subject of patents for inventions has been untouched by the legislature. The present Report discloses an accumulated mass of abuses and injustice perpetrated under cover of the existing law, such as it must be held disgraceful to the country to have tolerated, except on the supposition that the nature and extent of them were unknown to the people at large, and were till of late, beyond the sphere of their remedy. During the session of Parliament before last, a most feeble and ill-considered attempt was made to amend the existing laws in a bill sent up by the Commons to the Lords, but fortunately lost by the intervention of the leading law-lords, who, at the time, were understood to pledge themselves to take up the subject themselves, after maturer deliberation than they had the opportunity to bestow. In waiting for the fulfillment of this pledge, it will be useful to unfold the singular history of the only legitimate means this country possesses or exercises to encourage improvements in manufactures or arts by rewarding the ingenuity of inventors.

First, however, why should patents be granted at all? For it is quite obvious, that a Patent-law must be good or bad, in

proportion as it accomplishes well or ill the objects for which patents ought to be granted and protected.

One important purpose accomplished by granting and protecting patents, is the engaging of inventive ingenuity in the improvement of manufactures.

Many people form an erroneous idea of the kind of merit, and of the degree of application, requisite for making improvements in manufactures. They seem to imagine that most of those improvements are lucky hits, which it is only surprising nobody ever made before; and so they are unwilling to bestow rewards with liberality on such as they conceive owe success to good luck rather than to merit. Yet a little reflection may show how erroneous this opinion is. The great mass of useful inventions is made up, and must be, not of what is altogether new, but of improvements in what is already practised. Such improvements, it is also to be remembered, are more powerfully searched for, when manufactures have so far advanced as to employ many hands in a single branch. Since then it must be a very limited branch that employs only a thousand persons, how is it probable that in a business where at least a thousand persons have been employed for years, any improvement can come to be discovered by chance? Is it not obvious that all the improvements mere chance could bring about, are likely to be discovered at a very early period of such a business,—more especially under the operation of a Patent-law to give to every eye the quick-sightedness of self-interest? A soil that contains diamonds, will be curiously turned over, not only till it leaves no sparkle to attract the eye of the passenger, but till it remunerates no labour of premeditated search except that of the tasked slave. Yet, persons are heard thoughtless enough to exclaim, of such an improvement as James Watt's on the steam-engine, 'How simple!' And how wonderful nobody ever found it out before! They that say of such an invention 'How simple!' should consider what they mean. If the simplicity they speak of, refers to the adaptation of the means to the end, they are quite right. In this acceptation, simplicity is the very highest merit of an invention, for, of all the means that can be used to effect a given end, the simplest are evidently the best. But if when they say 'How simple' they mean How easy to be done and how easy to be found out, they are as wrong as they can be. For if the contrivance was thus easy to hit upon, why had it been missed by the numerous persons engaged for so many years before, in the making, in the working, and even in the improving of steam-engines? The very simplicity of an invention, which leads the unexperienced to infer little merit or application in the

inventor, is most commonly the sequel of complications, which in succession have been contrived by him, and in succession been rejected. Indeed, who that ever cast a glance of intelligent observation upon our manufactures, or that has ever been struck with the combined simplicity and efficacy of the means employed, can do otherwise than infer that any one of the means he admires must have been selected for superiority, when perhaps a thousand other schemes had been rejected ? So far from simple means of effecting an end being proportionately obvious to adopt, whoever has opportunities of watching young persons beginning to cultivate any branch of experimental science, may observe, that complicated means to effect an end are those they try first, and indeed whenever there is witnessed, as in the case of Watt, an early or immediate adoption of simple means to effect a desirable end, it is safe to infer the possession of great powers, natural or acquired, and a confidence in those powers such as experience in their exercise alone can inspire. In the attempt of Watt the only circumstance that can be attributed to chance was, that a working model of a steam-engine came into his hands to be repaired. But what made that model suggest to his mind inquiries and doubts that had never struck any man before ? No one can read the simple account of his discovery, as given by himself in his notes to Dr. Robinson's works, without being satisfied, that when that model came into his hands, it was to undergo a scrutiny such as the steam engine under no form had ever before been subjected to.

The propriety of holding out motives to improve manufactures, is shown by the almost miracles of success of men of genius, when acting steadily under what may appear a very small motive.

It is now almost forty years, since a German, the son of an actor, composed a play, which however he was too poor to get printed. The poverty which might have repressed every effort of an ordinary genius, roused Schiefelder's to make one of the most extraordinary attempts perhaps ever made in the whole history of useful inventions. Undismayed by the cheapness and the singular perfection of the art of printing, he conceived, for the purpose of getting his own play printed cheaply by himself, the bold attempt of inventing some new and cheaper way of printing. Nor was the success less wonderful than the attempt. Not by any chance,—not by a first lucky hit,—but by contrivance, by experiment, by perseverance amid disappointment, and by knowledge extended from failures, he succeeded in accomplishing this daring effort of his genius, and discovering

an art, which, if it cannot vie with other ways of printing for extensive utility, will yet, for inventive merit, and with reference to the hopelessness of the rude but simple materials whereby it is worked, ever be ranked among the most wonderful of human inventions.

Now, is it not for the interest of any country,—is it not for the advantage of the world at large,—that such men as Watt and Senefelder should have their attention and their efforts constantly directed towards useful improvements? It is in vain to say, that in this country, Watt was protected. The fact is, that after his invention had been found by a jury to be new and useful, and to be fairly described, it still came among the judges to be a question, whether his patent should not be set aside on account of some imaginary flaw that had no reference to the novelty or utility of the invention, or to the honesty of the patentee in disclosing it; and, about this flaw, the judges were at first equally divided; so that his patent was as nearly as possible made void, undoubted as were the merits of the invention. And, after all his experience and success in patents, such had been his vexation, that not only, as has been already observed, would nothing ever induce him to take out another patent for himself, but he was accustomed to advise all he had influence over, never to trust for protection to a patent. He himself, it is true, had succeeded; but it was rather in gaining a prize in a most uncertain lottery, than in obtaining a merited and assured reward for a very high and most beneficial order of labour; and even to him, the luck of gaining a large prize in such a lottery, was not motive enough to venture again.

Some, who would agree in thinking that motives should be held out to induce ingenious and scientific men to devote themselves to improvements in manufactures, would prefer that the reward, instead of being a patent, should be a grant of money to be awarded by the Legislature after due inquiry, or by some competent Board. To any such plan prosecuted as a system, the objection occurs of its openness to abuse. In the Appendix to the present Report, there is a list of rewards granted by Parliament on a like principle. Of these, the last is for the ‘Discovery of Nitric fumigation to prevent the communication of contagion.’ For this discovery, which doubtless would have been important had it accomplished what it professed, the sum of five thousand guineas was paid to a Dr. Smith. This transaction took place one and twenty years ago; but, were the reward to be granted now, when time and experience enable the public to estimate the value of the nostrum, five pence might be considered a reward somewhat above its value. To

the system of reward by patents no suspicion of favouritism can be attached; for under that system, in proportion as the invention is of more or less commercial value, will be the reward of the inventor.

Another plan, likewise open to the abuse of favouritism, has been tried in some foreign countries; consisting in appointing salaried men of science to the study of particular branches of the useful arts. Whether the advantage which in some instances has attended this plan in foreign countries, are not exceptions rather than general results of the plan, may be doubted. In this country however, it is certain that such a plan would end in much abuse, or, at all events, in far fewer improvements than would be made under a fair law of patent, which by letting men of science and ingenuity see through the spectacles of their own interest, would wonderfully sharpen their acuteness.

But, supposing that men of science and ingenuity required no inducement to invent improvements in manufactures, there would be need for patents to encourage the early efforts of themselves or others in such new inventions as they might give even gratuitously to the world. Very few inventions in manufactures are perfect, when first contrived or introduced into practice. Much further improvement is often needful in order to overcome unforeseen difficulties, and to meet all the wants of a manufacture conducted on the large scale. Prejudice too has to be overcome. The sanction of experience is wanting to confirm the advantage, and still more the permanence, of the improvement. After Watt had taken out his patent, he was six years before he succeeded in making one steam-engine according to his plan, matured in all its principles at least, as his patent and specification show it to have been. Part of this time was lost perhaps by inactivity; a further part, by the failure of Roebuck of the Carron Works, with whom he first associated himself, and probably a still greater part was owing to the imperfection of machinery in his time. But, making allowances for these causes of delay, still it is true, that at least three or four years were necessary to obviate the practical difficulties that lay in the way of making such an engine well for the first time. Such difficulties, and others too, attend all important new inventions in manufactures. The bringing of them into notice, the gaining of confidence in their permanence and worth, and the overcoming of prejudice against them on account of their very novelty, require time, care, perseverance, and much outlay. To insure success in such an undertaking, it is not unusual to spend years in overcoming the physical

difficulties of a new manufacture, to employ travellers and advertise extensively in order to bring the invention into general notice, to make a great outlay in order to establish the new manufacture merely as an example for others to follow, or sometimes a still greater outlay in order to get it established on a large scale so as to admit of the subdivision of labour and the perfection of it in all its parts. Now, without the encouragement of a patent, how is any man to engage in a novel and expensive process, when, the moment he succeeds at the cost of all this outlay, he must be sure that his neighbours who were cautious enough to shun all chance of loss, will come into competition with him and make the remuneration of his outlay impossible? A landlord possessing a farm that could not be made productive till after the lapse of years with continued cultivation and much outlay, will never get it rented without granting a lease; and unless he makes such a grant, or undertakes the labour and expense himself, the farm will remain for ever unproductive. Quite similar is the policy of granting patents, which may be considered leases for the cultivation of unprofitable farms of manufactures, granted partly to reward the merit of invention, and partly to remunerate the cost attending the introduction of the improvement and its early and unprofitable cultivation. By so granting patents, the country may hope at the end of their term to possess the new manufactures in a profitable form; whereas by refusing patents, or withholding from them adequate protection, it will either not possess the inventions, or, if it do possess them, it will be in the form of unapplied and barren suggestions. Give to the husbandman security that he may sit 'under his own vine and under his own fig tree,' and the magic of that security will raise the vine and the fig-tree where else would be the barren wilderness. Watt, it has been said, spent six whole years in bringing his invention into a good working state. The late Mr. Morton of Leith, the inventor of the patent slip as a substitute for dry docks, lost the same time before his patent became profitable to him, although he brought the invention very early into use. And a like loss of time prior to the invention becoming productive, appears from inquiry to be an almost constant occurrence in important inventions. There is the authority of Mr. Farey in the present Report for saying, that the expense of making the first steam-engine on the plan of Watt, was such as no maker could have been remunerated for, by any subsequent profit he could make, without the aid of what accrued from the patent or some other extraneous source. And indeed, but for the security which Watt erroneously conceived the Patent-law to afford, there is little doubt that his invention might

at this day have been sneeringly recorded by some author styling himself 'practical,' as a suggestion 'exceedingly ingenious in theory, but altogether useless in practice.'

But the existence of a Patent-law is not enough, unless it effects the purposes for which that law is intended. The next point therefore is to consider the principal defects that have been experienced in the regulations and in the administration of the existing law of patents.

All those defects, as well as all the suggestions proposed for their amendment, may be regarded as relating either to the granting of patents, or to the protection of them when granted.

First, as to the granting of patents.

The regulations for this purpose have long been a subject of just complaint on the part of patentees. Nor can this be wondered at, when those regulations are known. The unavoidable tediousness of the description of it, will give but a faint idea of the tediousness of the operation itself. But there is no shorter, better, or fairer way of exposing the absurd treatment experienced by candidates for a patent, than a narrative of the ordinary routine of taking out a patent. To understand this, it will be necessary for the reader to bear in mind, that besides the grand operation of taking out a patent, there is occasionally a preliminary stage relating to 'caveats,' and always a subsequent stage relating to 'specifications,' which are the writings fully descriptive of the invention patented. But, for the sake of distinctness, the ordinary routine of application where no caveats have been entered, will be described first; and afterwards, how that routine comes to be modified by caveats and specifications.

In applying for letters patent for England, the first proceeding is to draw out a petition to the king, humbly showing that the petitioner, after much study and expense, has made a new invention likely to be useful in the manufactories of the kingdom, and praying that, for this invention, his Majesty will be graciously pleased to grant his letters patent. This petition, accompanied by the petitioner's affidavit in support of its allegations, is to be left at the office of the Honourable the Secretary of State, where, as a matter of course, a reference is made to the Attorney or Solicitor General, by writing on the back of the petition a few lines, which are never altered, whatever be the nature of the patent applied for. This reference costs 2l 2s 6d. The petitioner, or else his agent, must call for this petition after it has been so indorsed; and he must take it, for it will not be sent, to the office of the Attorney General, or to that of the

Solicitor General. Supposing no caveat has been lodged at the office where the referred petition is thus taken, then, as a matter of course, a report in favour of the application is annexed to the petition. For this report, which is a lengthened piece of never-varied formality, the applicant has to pay 4*l.* 4*s.*, and he or his agent must call for this report and the petition, and when he finds them ready, he must carry them to the office of the Secretary of State, being the second time he has had to carry his petition thither. Here a new document is prepared, called the warrant,—the fees 7*l.* 13*s.* 6*d.* This warrant is drawn out in the name of the king, by whom it has to be signed. In its form it never varies, and, like the previous documents, it is drawn out as a matter of course, without the exercise of any discretion whatever. Addressed to the Attorney or Solicitor General, whose report it merely echoes, it desires the one or the other to make out letters patent in the usual form. Till this warrant is ready, the applicant, or his agent, has to make repeated calls at the office of the Secretary of State, and when he gets it, away with it he has to trudge back to the Attorney or Solicitor General's office again, but it is to another office of theirs, called the Patent Office. Here a copy of the patent is made out in the usual form, when it is called Mr. Attorney or Mr. Solicitor General's *Bill*. At this office the fees are 9*l.* 16*s.*; the stamps required come to 6*l.*, in all, 15*l.* 16*s.* The patentee or his agent has to call at the Patent Office till this bill is ready, and when he gets it, back once again must he go to the office of the Secretary of State. Here the Attorney or Solicitor General's copy of the patent or bill, obtains the signature of the king, and the fee of 7*l.* 13*s.* 6*d.* has again to be paid. Now, at length the applicant, or his agent, after having been twice to the Attorney or Solicitor General's, and after having been thence to the Secretary of State's office, has obtained, for the second and last time, the signature of the king, and one might imagine that after so dreary a pilgrimage, and so many tolls being exacted, the patent had at last reached its place of rest. So far from this however, that the most adventurous part of the pilgrimage remains to come. Mr. Attorney or Mr. Solicitor General's bill, in virtue of the sign manual, has, it seems, only become the King's bill. The patentee, or his agent, has now to take the King's bill to the Signet office, where a fee of 4*l.* 7*s.* has to be paid for a warrant drawn out by one of the clerks, ordering the Lord Chancellor to make out the patent, for the reader will probably be surprised to learn, that the real patent is not yet so much as begun, Mr. Attorney General's bill, afterwards the King's bill,

being only a first copy; but now that the copy has reached the Signet office, it has become the Signet bill. From the Signet office, the patentee, or his agent, has to take the Signet bill to another office, called the Privy Seal office. Here 4*l* 2*s.* is paid. The formality of drawing up a new warrant to the Lord Chancellor is performed by one of the clerks of this office, and the Signet bill, that was the King's bill, that was Mr. Attorney or Mr. Solicitor General's bill, *now* rises to the dignity of the Privy Seal bill. One step of additional dignity has been taken away by the corruption of the age. There *was* another office to which the copy of the patent used to be carried,—the Hanaper office. This office, however, is now missing, and the copy of the patent, under the designation of the Privy Seal bill, is taken to the office of the Lord Chancellor, where, however, the Hanaper fees, 10*l* 1*s.*, are not forgotten. Here, at the *long last*—to use the Celtic idiom,—the patent is drawn out and sealed. The fees of the Lord Chancellor's office are 8*l*. 9*s.* 2*d.*, besides 30*l*. 2*s.* for stamps. When the patent is to extend to the colonies, there are extra fees of 6*l*, if not more, and for a second name in the patent, there are extra fees of about 18*l*.; although such additions are attended with no trouble, nor require any separate document.

Overlooking for a little the expense thus incurred by the patentee, it is sufficient to keep a single eye on the regulations described, looking to them as part of the means employed by the greatest commercial nation in the world for encouraging improvements in its own manufactures. In this point of view, what useful purpose do they serve? Behold a reference ordered as a matter of course,—a report made as a matter of course,—a warrant issued as a matter of course,—a bill drawn as a matter of course,—signed by the King as a matter of course,—attested by the Signet as a matter of course,—confirmed by the Privy Seal as a matter of course,—and at length copied and sealed by the order of the Lord Chancellor, which also is given as a matter of course. Let the fees be but paid, and though the project were a rail-road to the moon, yet, as sure as the money is put down, a patent will be granted as a matter of course, without the omission of any proper solemnity. Nothing is looked after by anybody, unless there be a caveat entered. The whole amount therefore of discretion exercised in the granting of a patent, depends upon the caveats. Accordingly it is next necessary to give attention to the manner in which caveats modify the routine that has been described. A *caveat* is a documentary instrument entered by an inventor to prevent another person from taking out a patent for his invention. A caveat is

after this form, 'Caveat against granting a patent to any person or persons for'——say——'any improvement in the boiling of sugar,' or it may be, 'any improvement in weaving-loomis.' Whoever enters such a document at the office of the Attorney General or of the Solicitor General, is entitled to receive notice of application being made for a patent for such an object, and the enterer is thus enabled to communicate to the Attorney or Solicitor General, before either officer makes up his report, any information that may show a want of right in the new applicant. This being understood, who is the officer entrusted with the responsible duty of attending to the caveats?

This officer is no other than a clerk of the Attorney or Solicitor General, as the case may be. So that, after *two* submissions to the law advisers of the Crown, after *three* submissions to the Secretary of State, after *two* signatures by the King, after passing through the Signet and the Privy Seal offices, and after passing by the Hanaper to come at the Lord Chancellor,—after costing about 60*l.* in office fees alone, nobody looks after the matter at all, except a clerk, whose fee is five shillings. And what sort of qualifications may belong to the clerks, upon whose watchfulness thus depends the propriety of the sign manual being twice granted? Those qualifications are such as form no reproach to any five-shilling-fee clerk. So unacquainted with science and with manufactures was one of them, that, according to one witness, when an applicant for a patent, aware of a caveat being entered against any improvement in 'the boiling of sugar,' disguised a like invention under the title of an improvement in 'the boiling of certain vegetable substances,' it did not occur to the clerk, that sugar could possibly be a vegetable substance, and so the caveat was of no avail, [*Evidence*, p. 50], and on the other hand, according to another witness, if a man has lodged a caveat against 'any improvement in the *spinning* of cotton, or other fibrous substances,' he is almost sure to get notice of an application for 'an improved loom, wherewith to *weave* silk, or other fibrous substances' To be sure, spinning-wheels must be different from any weaving-loom, but then 'fibrous substances' occur in both titles. In the unanswerable logic of Fluellin, 'there is salmons in both.' Such are the qualifications and accomplishments of the officer upon whose vigilance may depend the propriety of the sign manual being twice granted; and such too is the watchful care with which the law and the government of the greatest commercial country in the world nourish improvements in its manufactures.

Whoever attends to the routine of taking out a patent

as described, may perceive that the documents demanded for that purpose are entirely formal. In general indeed, all the words that ever vary, are such as make up the name of the patentee and the title of his invention. These particulars being given, any attorney, with printed forms before him, may fill up all the blanks of all the documents in less than an hour; and the taking out of a patent, even on the principles at present recognized, need imply no more trouble than attends the shipment of any dozen of packages for a foreign port. In the hands of active men of business, the affair would be over in six hours, and certainly could not be delayed, without disgrace, for six days. But, according to the evidence produced, the strange ramble that a patent makes from office to office occupies from six weeks to six months. The delay, which the applicant for a patent has no means of shortening, occasions to him the most harassing anxiety. The patent right does not date from the application, but from the day when the Great Seal is affixed by the Lord Chancellor. Now the law is, that a patent must be for an invention that is new at the time of its being sealed. Consequently, if by fair means or by foul any man can, during this vexatious interval, get possession of the secret, he has only to put the invention into use, and the patent, when got, is good for nothing. One grievous part of the vexation is, that the patent offices do not afford any means of secrecy during the perilous interval of delay which themselves occasion. On the contrary, the existing regulations respecting caveats expose the secret to great risk of discovery, and even where no caveats are entered, so heedlessly are the patent offices conducted with reference to the interest of the candidate, that interested persons,—or at least some favoured agent of such persons,—may at any time learn what patents are applied for, and by whom. [*Evidence, pp 62, 63*]. It is true it is only the name of the inventor, and the title of his invention, that are thus obtained. But common sense and experience teach, how important for the keeping of a secret, is the concealing the fact of possessing one, and still more the withholding every hint as to its nature. Accordingly, the usual practice in applicants for a patent is to remain inactive during the interval of application, by way of diminishing the chances of discovery.

While considering the efficiency of the patent offices, it may be permitted to look at the enormous expenses which are heaped upon any inventor seeking the exceedingly insecure protection of a patent. That some cost must attend the granting of a patent, will readily be conceded. In almost

all countries indeed, patents have been taxed more or less. But the object of such taxation is less revenue to the state, than to cause patentees to be considerate in their applications. In this country, the cost attending the mere formalities of a patent may be divided into three parts; first, stamps,—which go to the exchequer; second, fees,—which go to the pockets of officials; third and last, agency paid to attorneys, or other persons called patent-agents, who undertake the forwarding of the needful documents from office to office. The following table will show, within a few shillings on each sum, the cost attending the mere formalities of patents for a single invention in all the United Kingdoms.

	Stamps.	Fees.	Agency.	Total.
England and Colonies	£36	£63	£11	£110
Scotland	1 10	67 10	11	80
Ireland	24	94	12	130
United Kingdoms	£61 10	£224 10	£34	£320

Besides these expenses attending the mere formalities of granting a patent, stamps for the specification have afterwards to be paid for, 5*l.* for England, the same for Scotland, and 1*l.* for Ireland,—in all 11*l.*; and enormous fees besides, but these are very uncertain, as they depend on the length of the specifications; though 29*l.* may be assumed as the average of the specification fees for the three kingdoms. Out of the 34*l.* for agency, not less than 25*l.* should be charged as the amount of office fees, so much being the additional expense incurred in consequence of the needless trouble given by those offices. In the following table, where these allowances have been made, a much clearer view will be given of how much goes into the Exchequer, and how much is due to fees of office; and in order that the policy of other countries in these respects may be compared with our own, there have been added the like particulars for four foreign nations.

	Exchequer.		Fees.		Total Official Cost.	
	£.	s.	£.	s.	£.	s.
England	41	0	81	0	122	0
Scotland	6	0	85	0	91	0
Ireland	25	0	112	0	137	0
United Kingdoms	72	0	278	0	350	0
France	62	10	2	2	64	12
Spain	60	0	0	16	60	16
Austria	43	0	0	6	43	6
United States of America...	6	10	none	.....	6	10

Whether the high fees paid in this country, or a tax instead of them, ought to continue to be exacted from inventors, has given rise to some discussion. ‘Oh!’ say some, ‘make the cost less, and the patents taken out for foolish things will be endless.’ To this it might be answered, that large as the cost now is, it does not prevent foolish patents being taken out, while, it is quite certain, it *does* prevent meritorious ones. The source, indeed, of most of the foolish patents now taken out, lies in the secrecy so imperative upon the applicant for a patent, up to the date of his getting it sealed; when, if he has taken out a patent for each of the three kingdoms, he will have paid 320*l*. Up to that moment, he dares take no advice from persons competent to advise; and if he should then discover himself in error, the largeness of the sum he has paid may add to the sorrow of his unavailing repentance, but can be of no use as a precaution, for paid the money must be, before he dare ascertain whether it is prudently adventured or not. If, therefore, it be seriously wished to put a stop to foolish patents, the plan is,—not, as thoughtless or interested persons have pretended, to keep up high fees to prevent poor men from taking out meritorious patents and allow rich men the exclusive privilege of taking out foolish ones,—but to provide in the arrangement for granting patents, a *locus penitentiae* for the applicant, an opportunity of receiving advice, and then withdrawing his application if he shall see fit. Under such an arrangement, a much smaller fee might cause more reflexion than the present large fees, which in that way are almost altogether inoperative.

How little interest the state can have in making patents the subject of taxation as a source of revenue, may appear from the following approximate estimate of the taxes levied on patentees throughout the United Kingdom in one year.

Patent Fees	£15,000	
Specification fees	3,000	
Soliciting patents	2,000	
	<hr/>	£20,000
Stamps for patents	£6,000	
Ditto for specifications	1,000	
	<hr/>	£7,000
		<hr/>
		£27,000

Of this 27,000*l.*, the whole that passes into the Exchequer is 7,000*l.*; but were it the whole 27,000*l.*, it might be shown, by referring to a single example, what dear-bought revenue this money might be. Mr. Neilson, manager of the Glasgow Gas Works, lately took out a patent for an improvement in the blast of smelting furnaces, and which has been hitherto chiefly employed in the reducing of iron from its ore. The patent has already come into extensive operation, and in Scotland alone, the saving of coal it occasions, will amount every year to more than 27,000*l.*; that is, to more than the whole amount of both fees and taxes on all the patents for all the three kingdoms. Yet Scotland is much the smallest of the three; and, compared with England, in the manufacture of iron, may scarcely be named. Now if a single patent, in Scotland alone, will more than save all the money levied for the whole United Kingdom on all patentees; it is quite evident, that if the patent exactions had in this one instance deterred the patentee from giving his invention to the country, the United Kingdom at large must have been a loser to an amount to which the increase given to the revenue,—even putting out of the account that this also must have been taken from somebody,—bears scarcely any visible proportion. Surely the world is now old enough to understand the policy of the boy in the fable, who killed the goose that laid the golden eggs.

The fees, the regulations, and the administration of patents for inventions, are much more the result of accident than of design. For more than two hundred years, no legislative interference has taken place on the subject, which during that period has by the altered circumstances of the country been steadily rising into importance. Of this progress, proof enough will appear in the following table, wherein, starting with the last century, is set down the average number of patents for England in one year, for each of the ten years preceding the dates given.

Average for ten years preceding.	Patents in one year.	Average for ten years preceding.	Patents in one year.
1710.....	2	1780.....	27
1720.....	4	1790.....	47
1730.....	9	1800.....	64
1740.....	6	1810.....	92
1750.....	8	1820.....	111
1760.....	10	1830.....	115
1770.....	22		

A subject involving so many practical considerations, as the existing system of granting patents in relation to its forms,

cannot be dismissed, without affording the reader an opportunity of knowing the impression the working of it has made on practical persons, whose avocations have made them familiar with its details. For this purpose, extracts will be made from the evidence in the Report.

Mr. John Taylor. ‘Are you conversant with the taking out of Letters Patent for inventions?’—I have had some experience formerly, but not much of late; my time was then chiefly employed in manufacturing, which led me to interfere with patents.’

‘Have you taken out any patents yourself?’—Yes, I took out a patent for oil gas, and I have been concerned in others.’

‘Describe to the committee how you proceed in taking out a patent.—As soon as an invention is to be exercised in this way, it becomes necessary, in order to secure it, to keep it perfectly secret for some time,—the law, I believe, being that any publication before sealing a patent would vitiate that patent. This seems to me to be the practice, and is one of the general objections to the present law; because, as the invention, be it what it may, necessarily involves experiments of some sort, and as those experiments can hardly be conducted perfectly in private, or without the assistance of workmen and others, a revealing of the secret, fatal to the patent afterwards, may take place, if confidence is broken. In my own case, having thought of making gas from oil, I proceeded to try a slight experiment, assisted by my workmen; and, to prevent their knowing what I was about, I destroyed the apparatus instantly after I had made the experiment. I mentioned it afterwards to my brother, and then waited patiently till the patent was sealed. Had I, during this interval, been allowed to go into experiments, I could have made a much better specification.’—*Evidence*, pp. 5, 8, 9.

Mr. John Farcy.—‘I prepared the title for an application for a patent on the 23rd of June last (1828), and I am certain that the first proceeding for a patent was taken by the attorney within a day or two of that date; but the patent was not obtained till the 31st of January 1829,—seven months after. What made this particularly inconvenient, was that the inventor had made a trial of his invention before he thought of taking out a patent at all, and before he applied to me. I advised him to keep it a profound secret from the instant he made application for a patent; and I told him that it would be from six weeks to two months that he would be obliged to remain in secrecy and inaction; but it proved to be more than seven months. Meanwhile another person had conceived the same idea, and, so late as the 8th of December, opposed the grant of that patent before the Attorney General. I believe that the invention upon which the opposition was founded, did not exist at the time the patent ought to have passed, had there been no delay.’—*Evidence*, p. 18.

Mr. Francis Abbot, of the Petty Pay Office, where specifications are entered; a patent-agent.—‘You have mentioned; sometimes three

months occur between applying for an English patent, and obtaining the great seal to it?—Yes.'

'During the whole of that time, is not the inventor liable to lose his patent supposing anybody, by becoming acquainted with the invention, makes it public?—Certainly; and he is exposed to the more danger, because the nature of the patent applied for comes to be known, in consequence of notice being given from the Attorney General's Office to all persons who have got caveats on the subject. I was taking out a patent for a man a few years ago, who, on a Saturday afternoon, while his patent was in progress, after his workmen had left for the day, seeing one of them come back and go into the workshop, said, What brought you back? "Oh!" says he, "there is one of Mr. So-and-so's workmen, that says his master has heard you are about taking a patent, and he has come for me to tell him what it is." That often happens. The secret is sought after among the workmen, when the person applying for a patent has a number.'

'What length of time does it require to get an Irish patent sealed?—There the delay is longer. How to account for it I do not know; but you can seldom get an Irish patent in less than five or six months. This is the more unaccountable, since the royal signature is only required once for an Irish patent, where it is required twice for an English patent. In Edinburgh, by corresponding with my agent there, I can get a patent passed much more expeditiously than here; in ordinary cases, about half the time. This expedition arises from the royal signature being required only once for a Scotch patent. The delay in Ireland I cannot account for. But I have often, and every body who has had anything to do with it, have felt the great inconvenience they are put to in getting a patent for Ireland, so much so that I have remonstrated, and had to press it on. I have frequently said, the patentee is in danger of having the Irish patent right destroyed, inasmuch as he must specify in England before getting the Irish patent sealed, and anybody may see the English specification here by paying the office-fecs for search. The whole subject matter of the English specification may be sent over to Ireland, where there is no patent right to prevent the invention being used; and being used is completely destructive of the patent, unless it has previously passed the great seal.'

'Cannot he enter a caveat in Ireland?—That only prevents any other person taking out a patent right; it does not prevent a person using the thing if he can find what it is,—it only prevents him getting a patent for it. I have often had occasion to remonstrate, from the danger that was likely to arise from that delay, and I have pressed it every way I could, but I could never get a patent in less than five or six months. Sometimes it happens that a patentee wishes to have the opportunity of trying his invention under his English patent a little, to see how it will work in practice; for it is a dangerous thing to try it otherwise, if it be anything that is to operate on a large scale. If he takes a month or six weeks, it is a moral certainty that he cannot get his Irish patent through before he has to specify here.'

‘Possibly you can tell where the delay arises in England? The greatest delay is when, from any cause or other, the royal signature cannot be obtained. In some instances the great officers of state are in the country. Then the patentee is put to increased expense, or he will have to wait a month or two perhaps for the privy seal, unless he will pay an extra expense towards a journey; and upon some occasions patentees have actually paid considerable sums to make a journey on purpose, where particular circumstances rendered it necessary that they should have the patent immediately, without waiting until any body else contributed towards the journey.’—*Evidence*, pp. 50, 51, 53.

Mr. William Newton.—‘The time that elapses between applying for a patent and obtaining the great seal to it, frequently supersedes the patent; and it arises from various causes. One cause I consider to be the irregularity with which documents are delivered at the Secretary of State’s Office. I have frequently known that those papers which have been sent first have been delivered last; that many boxes of papers have been sent to the king, and retained for weeks together; and I have known instances in which the warrants and the bills have been kept for some months under peculiar circumstances, his Majesty either being greatly indisposed, or greatly occupied, I presume, with other business. During the whole of that delay, the patent is stationary, and the patentee has no protection till the great seal is appended to the patent. There is another thing which is productive of inconvenience, which is the repeated journeys that the agent’s clerk has to make to these offices, which induce him frequently to stay three or four days, not apprehending anything will be ready, and some other agents, perhaps more vigilant than himself, get their papers forward; and I have known instances in which patents have thus jumped one over another to the prejudice of the first applicant.’—*Evidence*, p. 66.

Benjamin Rotch, Esq. barrister at law, now M.P.—‘The passing of a patent is a thing that might be done in three days if there was any dispatch of business. It does seem extremely cruel that the patentee, who is called on to pay an immense sum of money, and who does all he can, should present his petition to-day and not have his patent for six months, during which time the secret of his patent is frequently discovered.—I have known a man fifteen months, after presenting his petition and affidavit, before he could get his patent passed through the offices.—I have known one man upset another, because he had the ear—I will not name names—of a person about his Majesty, who could get his paper signed; and I have known one hundred guineas given for signing one paper before another.’—*Evidence*, pp. 116, 117.

Mr. Poole, clerk of the Patent Office, and a patent-agent.—‘I have known several instances where patents have been lost in consequence of the delay in the passing of them.’—*Evidence*, p. 82.

Mr. Samuel Morton, of Leith, brother of the late Mr. Thomas Morton, patentee of the slip for hauling vessels out of the water.—‘Have you experienced any inconvenience in the applications you have made for patents, from the delay that now occurs in the

sealing of a patent?—We were very near suffering by that, because there was an attempted infringement of our patent before it was completed. The patent was delayed so long that the apparatus by which it was intended to infringe our patent was nearly finished, and it might have been finished in fourteen days more. From what cause the delay took place I do not exactly know. I believe his Majesty was unwell, which prevented the patent being signed. So by a casualty over which we had no control, we were very near losing the benefit of the invention.—*Evidence*, p. 92.

All the foregoing evidence and observations relate to a very tedious process of mere formalities, which have to be observed alike, whether any previous examination takes place in consequence of caveats or none. The trouble, the delay, and the risks attending that process, one might expect, would be compensated for by excellence in the discretionary procedure instituted whenever caveats have been entered. Yet in that procedure the very first, and indeed most essential step, falls to be performed, as has been intimated, by an incompetent clerk, whose ignorance is most likely to render a caveat of no use whatever; more especially since the existing regulations give to any patentee wishing to evade opposition from the enterers of caveats, the full benefit of the chances of official ignorance. Such a candidate repairs to the offices where caveats are entered, and where they will be laid open to his inspection. Having by this means discovered what caveats lie in the way of his invention, he needs but little ingenuity so to frame the title of his invention, as to disguise the object of it from a person who being ignorant of manufactures and of science, must judge of likeness or unlikeness from the words employed alone. A flimsy disguise of words thus hit on, was the expedient that succeeded in the case alluded to wherein sugar instead of being mentioned by name, was characterized as a vegetable substance. Thus easily might an inventor, seeking protection under caveats, be jostled and kept out of his rights at the very threshold of the offices instituted for his protection, and by the help of their officers.

Even were such hinderances removed, caveats would be open to many objections, including some that must be got over, but never can be so until the existing system of caveats is greatly changed. The source of most of those objections may be said to lie in this, that the person entering a caveat is, at the time of lodging it, not bound to commit to writing any particular description of his alleged invention, or of the means whereby it is worked, but is bound only to give, in vague terms if he chuses, a general title to the alleged invention. Indeed a very

general title is often fixed upon, lest the special object of it might be misunderstood by the Attorney or Solicitor General's clerk. For example, a caveat may be entered against any patent being taken out in the refining or boiling of sugar. But such a general title may include a great variety of inventions, each having a different specific object. The improvement of the enterer of the caveat may, for instance, relate to the using of charcoal as a purifier, like Martineau or Constant; to the creating of a vacuum above the pans to permit boiling at a lower temperature, like Howard; or to the placing between the fire and the pans a fluid medium to prevent scorching, as oil by Wilson, or a concentrated solution of muriate of lime by Ure. But since a caveat remains in force for a twelvemonth, it may come to pass that an inventor, having entered a caveat on account of any one of such improvements, shall at any time during that twelvemonth appear against an inventor taking out a patent for some other of those improvements; and the general title of this caveat, taken along with the date of lodging it, will constitute it as good evidence against the one invention as against the other. But what is worse, this freedom from committing to writing any description of the alleged invention, enables persons that have made no invention at all, to enter caveats; and in point of fact, such persons do enter caveats under very general titles, trusting to their picking up information of any new invention that may come to be patented, and procuring money or agency by intimidating or wheedling the real inventor.

Combined with this freedom of the enterer of a caveat, is to be considered a like freedom on the part of the applicant for a patent; for, in presenting his petition for his patent, he too is not obliged to furnish any more than a vague title of his invention. The specification fully descriptive of it, need not be entered by him for two, four, or six months after his patent is sealed. This want of record, both in the entering of caveats and in the application for patents, not only takes from real inventors what might often be the best evidence possible to adduce of their priority, but as will now be more particularly shown, affords shelter to the fraudulent enterer of a caveat, as well as to the fraudulent applicant for a patent.

The decision of all conflicting claims under caveats, is left to the Attorney or Solicitor General, whose knowledge and pursuits, it would be affectation to deny, ill qualify either to understand controversies respecting the merits or the identity of manufacturing inventions. The hearings are private, and each claimant is heard in the absence of his opponent. In private then, before such a judge, what is easier for the fraudulent applicant for a

patent,—who having committed one fraud, will in order to cover it, not be scrupulous in attempting a second,—than to represent the invention he stole, as altogether different from what it really is, and from what he will hereafter in his specification describe it to be? At such hearings, if he chuses to describe an invention as old as the hills, the chance is it will pass muster with the Attorney or Solicitor General, who must be nearly as well acquainted with old manufactures as with new. At all events the description given verbally by the fraudulent patentee to either officer, cannot be challenged as different from the subject of the original petition;—for there, though an invention is named, none is described. Nor will it be challenged by, either law-officer as different from the specification afterwards to be entered; for neither of the two keeps any record of the description tendered at such hearings, or gives himself the slightest trouble as to what is entered in the specification. Such hearings, too, are the more to be dreaded by the real inventor, in as far as they afford to the fraudulent applicant the opportunity of gaining more precise information respecting the invention, by means of crafty observations and questions addressed to the Attorney or Solicitor General, who, for want of acquaintance with manufactures, cannot discriminate the points upon which to be silent. Such hearings are almost sure to end in the decision, that the fraudulent applicant for the patent possesses a different invention from the enterer of the caveat, who must wait until the specification of the fraudulent patentee is entered, before he has the mortification to discover that, after all, the invention which has been patented, was really his own; and that the system of caveats, far from being a sword of terror to the fraudulent, is to them a buckler of defence.

Nor is this the only mortification that the want of early record by colourable inventors, provides for those that are such in reality. The great delay attending the mere formalities of a patent, has given occasion to regulations as to the time of entering specifications. According to those regulations, if the patent is for only one of the three kingdoms, two months will be allowed to enter the specification; if it be for two of the three kingdoms, four months are allowed; and if it be for all the three kingdoms, six months. The reason assigned for these extensions is, that otherwise the progress of the patents in the several kingdoms might prove such, that though the time of entering the specification for one of the three kingdoms had arrived, the patent for one or both of the other two kingdoms might not be sealed, and consequently in one or both of those two other kingdoms the invention might be borrowed and put into practice from the

specification of the first kingdom, and thus the patent in one or both of those two other kingdoms would, when granted, be of no avail. Now, under these regulations, the following fraud may be, and has been committed. An inventor has completed an important improvement in some branch of manufacture, and he has come to London to make the needful inquiries prior to his taking out a patent. The fact of his having such an intention transpires, notwithstanding the exercise of considerable precaution; insomuch that his intention has been heard of by one of those designing individuals, that London will always supply where gain and opportunity hold out temptation. This rogue has had the address to ascertain, in general, that the improvement relates to the steam-engine, to cotton spinning, or to sugar-boiling, as the case may be; and though he has been unable to gather any particulars, he has made out that the inventor, a very able man, has devoted himself almost exclusively to the object for two or three years past. This is enough to satisfy the rogue, that something worth-while is coming out, and so he boldly makes oath that he has after much study and expense, invented an important new or improved manufacture, for which he petitions that his Majesty will be graciously pleased to grant him letters patent; and in order to secure the longest time to specify, he avers in his affidavit that he intends to make a like application for the remaining two parts of the United Kingdom. Of course the rogue will get the patent, and of course he will be allowed six months to specify. The real inventor, quite unsuspecting, comes to make his application two or three days or weeks after the rogue; but owing to the exorbitant rate of the patent fees, the chance is at least four to one, that he will not apply for patents for more than one or two of the three kingdoms. Accordingly, the honest inventor will be allowed two or four months to enter the specification, while the rogue has been allowed six months. Patiently therefore, and securely, may this rogue wait, until the unsuspecting inventor enters his specification, which the same rogue has then only to copy into his own, with a few variations in expression for the sake of decency, but that is all. According to the existing law, the date of the specification is nothing, in reference to questions of novelty; while the date of the patent is everything. Standing therefore upon the priority of his patent, the rogue not only deprives the inventor of his merited reward, but appropriates to himself all its advantages. Even yet, some dregs remain, in the cup of mortification which this wretched system mixes up for the honest inventor. For, after being thus wheedled out of his

reward, and after losing all the cost of his patent and of his invention, and while yet blaming perhaps in the vexation of his heart the absurdity of the regulations, he may discover that the rogue has after all, taken out a patent for only one of the three kingdoms as he has done himself. The only difference is, that the honest inventor swore that he intended to apply for a patent for one or two of the three kingdoms, and did take patent accordingly; while the rogue swore that he would apply for patents for all the three kingdoms, but in point of fact did take them for only one or two as he thought proper. Some people think, that one or two hundred pounds may be very cheaply saved by an oath. In the evidence in the Report, more witnesses than one, remark that honest men scruple to make such oaths; but another witness professes that there is little occasion for such scruple, seeing that all the applicant swears to, is that he will apply for the patent, which this witness conceives to be done when the petitions are lodged, without the petitioner taking, or intending to take, a single other step in order to give effect to those petitions. Indeed a comparison of the English and of the Scotch patents, published in the scientific journals, proves that such scruples are felt by very few patentees. Yet, in the conscience of any right-minded man, such oaths can be regarded no otherwise than as a solemn mockery.

A minor species of the same fraud is also sometimes committed, and is thus noticed in the evidence of practical men before the committee.

Mr. Newton.—‘A person takes out a patent for a certain improvement in the clarification of gas, and a second individual who has, by some means, become acquainted with an object of the same kind contrived by a third man, goes and dishonestly sells that invention to the first, who has the patent, and who gets it entered in his specification, and so destroys the rights of the third man, the real inventor, who is to come afterwards. That has occurred recently.’—*Evidence*, p. 74.

Mr. Farey.—‘A patent was granted on the 29th of November last (1828), but it is not yet specified. It is intitled “For certain Improvements in the construction of Steam-Engines, and the Apparatus connected therewith.” The patent gives eighteen months to prepare the specification*. Now, whatever novelty relating to steam-engines the patentee can find out by any means in the course of those eighteen months,—or perhaps during two years, dating from the time of his first application,—that will be covered by this comprehensive title. He may bring it forward in the specification, and nobody will be

* The occasion of this unusual extension was the death of the patentee; and the extension was granted upon the application of his executors.

able to prove that he did not possess the invention at the time of the application.—It is an intolerable nuisance, that persons engaged in speculations are thus perpetually in danger of having their inventions or improvements stolen from them, and put into the specifications of some existing patents, not yet specified, but which have titles that will cover their inventions. Such undefined patents are like legalized receiving-houses for stolen goods.'—*Evidence*, pp. 24, 26.

But let it be for a moment admitted that the operation of caveats is much more efficacious than can be pretended, nay, that it is altogether effectual in detecting the dishonest pretender to invention; and imagine that there are seen standing before the Attorney or Solicitor General, the real inventor and the convicted pilferer of his ingenuity. The question, then, would still remain, What power has the Attorney or Solicitor General to secure the patent to the real inventor? Without the acquiescence of the plagiarist, neither officer has any such power at all; for the senseless regulations relating to the passing of a patent will delay it for several weeks to come, or several months, and in that interval there is nothing to prevent the plagiarist from rendering the patent void when granted, by merely publishing the invention or putting it into operation. What then can the Attorney or Solicitor General do, to give the inventor what is his right? There is no law to guide the Attorney or Solicitor General in such a case, and the practice will probably vary according to the individual that holds the office; but, as far as can be gathered from the evidence of experienced persons as published in the present Report, the usual practice is to recommend a compromise of some sort. What else indeed could be done? And thus the law, or its administration, provides to the fraudulent a security of reward that it refuses to the meritorious inventor; and thus, in succession, do frauds that should at once be rooted out, come to maturity and succeed.

In the department of specifications, there is discovered a like want of organization. For the registration of these documents, there are three offices where it is optional for patentees to lodge their specifications. At not one of these offices, is there kept for inspection an index of the specifications, arranged according to the nature of the inventions; nor indeed is there an index at all, except some that show the date and the name of the patentee; but these, being made and possessed by the clerks of the offices, who act also as patent-agents, are intended principally for the clients of those clerks. Moreover the cost of entering a specification, and even of obtaining an official copy of one, is very great. To show how such want of organization

and extravagance of cost may come to be oppressive, the following instance will be given from personal knowledge. A very rich but very ignorant man, once came to certain parties, and said, 'Oh, you are working a manufacture for which I have a patent.' 'Indeed!' said the parties, 'we never heard of such a patent. Will you favour us with a copy of your specification?' 'I will not,' said he; 'you must apply to the Patent Office.' Threatened with a legal prosecution, the parties had no remedy. Accordingly they applied for and obtained a copy of the specification, which proved to be not only for a different invention, but for one that it was impossible to work at all,—an invention such that when it came afterwards to be attempted, it was abandoned by the inventor himself. Under such circumstances, it was surely very hard for the parties to be involved by the ill organization and expensive charges of the specification offices, in the following expenses, which are extracted from the discharged bill of a most respectable London solicitor.

	£.	s.	d.
Searching, but not finding specification at the Rolls Chapel			
Office 6s. 8d.; fees 1s.	-	-	-
The like at the Petty Bag Office	-	-	-
Attending at the Inrolment Office, searching and finding,			
and bespeaking the copy	-	-	-
Paid for specification and plan	-	-	-
Letter and postages	-	-	-
	£.	13	4
		0	0

The parties that were put to this expense, had afterwards to get the same specification and plan printed; but a hundred printed copies cost only 1*l.* 10s.

Enough has been said to show that, whoever may be the ministers acceptable to the Crown, ample room remains here for rooting out abuses flagrant, absurd, and intolerable.

ART. XIII. — *Calendar of Prisoners in his Majesty's Gaol of Newgate, for the Session commencing on Monday, the 15th of December, 1834.*—London; Tyler.

WHEN the benchers of the Inner Temple announced that Professor Austin would deliver a course of lectures on jurisprudence and international law, a barrister in good practice said he wondered 'they could not find a better real property lawyer than John Austin, who never held a Chancery brief in his life.' Now although ignorance so crass as this (to borrow a phrase from the Chancellor) may not be common, many

barristers would be found, if strictly pressed to define jurisprudence, quite as wide of the mark as the learned gentleman aforesaid. And why not? The word is not in Tidd or Chitty; and it would be difficult to show that a knowledge of its meaning would bring in one additional guinea. This is so well understood, that Mr. Austin at his last lecture had only five auditors; the students, who admit their own idleness, not liking such dry matter, and those who profess industry having no time for theories. This being the state of the profession, it is not surprising that the public should be equally uninformed; and if a proof were asked, none better could be offered than the reception of the Central Criminal Court Act, a good and laudable measure, but no miracle to those who have seen laws made in other places.

Yet this bill was thought worthy of being mentioned prominently in the King's speech; and for many weeks a controversy was kept up in the papers as to the authorship of the great Act. The Lord Chancellor, the late Mr. Shelton, Sir John Sylvester, Mr. John Clarke, Mr. Charles Phillips, and the Court of Aldermen, it seems are to divide the glory. Mr. Phillips, indeed, is willing to hand over his share to the Chancellor; and truly he may well afford to do so, for he says to his own knowledge 'he (the Chancellor) was nearly three months actively employed upon it. He consulted the law-officers of the Crown; he consulted the learned Recorder; he consulted every one who could give him any practical information *; he laboriously weighed their various suggestions, and at length introduced his measure with a speech of such surpassing power, that neither in parliament, nor out of parliament, from any party was there heard a dissentient voice. To Lord Brougham, and to Lord Brougham alone, are the public indebted for this vast improvement.' 'We read in Codignus,' says Sir Thomas Brown†, 'that upon a sneeze of the Emperor of Monomotapa, there passed acclamations successively through the city.' But while the public, on Mr. Phillips's authority, was pressing forward its acclamations, in stepped 'The Times,' (Monday, November 10), with a statement that the sternutation was only the echo of various sneezes, which, like the tunes in Baron Munchausen's horn, had remained frozen up in Mr. John Clarke's

* 'He talked to the hosts where he stopped to bait,
He talked to the barmaids fair,
He talked to the waiters, he talked to the boots,
He talked it every where.' — *The Eating of Edinbro'*;

† 'Enquiries into Vulgar and Common Errors,' London. 1686. B. iv. c. 9.

chambers, and only reached the great trumpeter after they had been thawed at the Home Office.

The controversy is unimportant, except as an instance of the surprise which is excited by the passing of any law not positively bad. As a sample of legislation, it may be hailed like the green peas of January, which though perhaps good, are more admired for scarcity than flavour. As a philosophical measure, a French advocate who should have prepared it, would not have vindicated his reputation had it been ascribed to his clerk; and a law student in any of the German Universities, would light his pipe with it. There is nothing in the form which might not have been furnished by any Old Bailey practitioner of sufficient skill to draw an indictment, and little in the substance which required the consultation of higher authorities than Crutchley's Map of the Environs of London. The minor details as to the arrangement of sittings, payment of expenses, &c., are well-digested; but such matters, however necessary, are not the legislation which places its author on the same shelf with Justinian and Napoleon. Yet the Act is a very good Act, and the public may be glad of it, whoever was the author.

Moreover, the Act was not passed before it was wanted. The bridges have virtually repealed the distinction between Middlesex and Surrey; and nothing could be more incongruous, than that a thief apprehended in Tooley Street on the first of September, should have his punishment delayed and be retained at the public expense till the following March, and another caught in Thames Street should be tried in a week. Bad, however, as this was in the case of thieves, much worse was it when persons were groundlessly accused and committed for trial;—a fact of more frequent occurrence than the public are aware. The pressure of Middlesex business had filled the gaols to such an extent, that a more rapid delivery became expedient; and those enlightened functionaries the Middlesex magistrates, appointed an intermediate session for that purpose. The plan was not bad, had there been any one to execute it; but much as the public admire speedy justice, they began to think that the adjective and the substantive were not well conjoined, when they read nearly every other day in the papers,—*Clerkenwell*,
ANOTHER MISTAKE.

Many of our legal technicalities are worse than useless; but while the legislature allows them to remain, it is the business of even the highest judges to adhere to them, and an 'equitable' administration of penal law by magistrates whose qualifications are pecuniary and whose irresponsibility is established, was too

gross to be endured in silence. In the chairman's absence, any of the worthy gentlemen present supplied his place; and not knowing the difference between legal and illegal evidence, between examination in chief and cross-examination, they sometimes merely looked at depositions; and read the questions to which the witnesses had only to answer Yes and No. Thus, 'Were you in Oxford Street on Sunday? Yes. Did you lose a handkerchief? Yes. Did the prisoner take it? Yes. Is that handkerchief yours? Yes. Gentlemen of the jury, you have heard the case. This, and much worse than this, has occurred; and indeed the whole style of doing business at the Middlesex Sessions was such, that nothing prevented its being intensely ludicrous, but the consideration that persons might suffer the highest penalty of the law short of death, through a Clerkenwell mistake.

The jurisdiction of this tribunal is greatly contracted by the late Act; and as it would be difficult to find a worse, the transfer may be held to be beneficial. Urgent, however, as the case was, something more should have been done to render the new court that which it ought to be. The necessity of this will be more apparent, as the public attention is more closely fixed upon the Central Criminal Court than it was upon the Old Bailey; but the Act contains no provision for such improvement, and one clause seems framed with a view to the perpetuation of abuses.—

S. 23.—'Provided always, and be it further enacted, that nothing in this act contained, shall extend or be construed to extend to prejudice or affect the rights, interests, privileges, franchises, or authorities of the Lord Mayor, aldermen, and recorder of the City of London, or their successors, the sheriffs of the City of London, and County of Middlesex for the time being, or prohibit, defeat, alter, or diminish any power, authority, or jurisdiction, which at the time of making this act, the said Lord Mayor, aldermen, and recorder for the time being of the same city, did or might lawfully use or exercise.'

• It is unpleasant to indulge in anticipations of evil from a good measure; but nothing short of a repeal of this section, and an entire sweeping away of the Lord Mayor and Aldermen, will give that efficiency and respectability which the principal court of criminal jurisdiction in the empire ought to possess. Anything short of this will be merely a palliative or rather a disguise, and the Old Bailey will not escape detection under its new *alias* of Central Criminal Court.

One of the privileges is curious. In January 1831, Richard Carlile was indicted for a libel. The late recorder being asked whether he would try the case, answered, 'Certainly; it is the

undoubted right of every citizen of London to insist upon being tried by his recorder.' It is not reported that the defendant was at all tenacious of his *privilege*; which word in such case would have suggested the etymological construction which it has in the civil law,—*privatio legis*.

The privileges thus saved are numerous, and they yield a pretty picking in the patronage and perquisite line. All officers connected with the court, from the recorder and common sergeant down to the 'touters' who invite the public to 'walk up and hear the trials,' are appointed by the corporation; and all places seem to be lucrative, except those of the sheriffs; but they have patronage, and each can appoint a friend to the valuable post of under-sheriff, it being a bye-word that 'the whole business of the sheriffs is to pay, and that of the under-sheriffs to take.' Unclaimed valuables, and the various articles taken from felons, belong to them; and by a stirring attorney the opportunity of extending his connexions is not neglected. In one instance, an alderman who was sheriff, appointed one of his partners under-sheriff, while a third partner was actively engaged in prosecuting and defending the prisoners,—a happy combination of the judicial, ministerial, and procuratorial departments, by which a criminal might have had the satisfaction of being tried, defended, and executed by the same firm. The Court of Aldermen carry on their deliberations in private; and as they have recently determined to exclude the sheriffs, who had for a long time been allowed by courtesy to be present, it may fairly be concluded, that they are engaged in a way of which even aldermen are ashamed, and that any appeal to such a body against profitable abuses, would be mere waste of time and trouble. Indeed the office has fallen into comparative disrepute, and is not sought as it was a century ago by the leading merchants and men of character in the city, who, in consequence of having become the associates of the fashionable classes, have felt a reluctance to exclude themselves from good company by prefixing 'Mr. Alderman' to their names. In many instances too, the prudential motive of not wasting time in the numerous official and gastronomical duties which an alderman must perform, deters candidates; and in some, a disinclination to act as a magistrate, and be put to the alternative of misadministering the law or being a tool in the hands of the clerk. From these and other causes which it is not important to the present inquiry to trace, the aldermanic dignity has been declined by those who were competent to do honour to the station, and sought by those who, having a scarcity of their own, hoped to derive honour from it. To this censure there

are exceptions, but no one who knows any thing of city affairs, will deny its general applicability; and the working of the system is such as might be expected from the heads. In one case there is found a good result from a bad principle. The Court of Aldermen, like most irresponsible bodies, is attached to the sluggish practice of rotation; and when the Recordership is vacant, it is almost always conferred on the Common Sergeant, who is elected by the common council. The recorders of London have generally been men of competent, and sometimes of eminent ability,—a fact to be accounted for only by the more republican nature of the common council, which is elected annually, though in the worst possible way. That the aldermen would not have made tolerable selections if left to themselves, may be presumed from their small success in the judicial appointments which they have made.

To secure a due administration of justice, no effort should be spared to make the court respectable and respected. There is nothing in the atmosphere of the Old Bailey that should make the bench or bar worse than in other courts; yet a strong prejudice exists in the profession and in the public against it. The prosecuting or defending a felon cannot *per se* be less reputable there, than at Norwich or York; yet the title of Old Bailey Barrister is claimed by no one, and is generally esteemed a term of reproach. Much of this arises from ignorance. Many middle-aged barristers who have for some years attended sessions in the counties where their connexions are most powerful, and who after one trial have not been trusted with anything beyond a motion—‘to enter and respite,’ think that could they condescend to go to the Old Bailey, they need only show their wigs to get plenty of business; and a young man who had provided himself with a wife, was recently heard to declare, that he would go to the Old Bailey because he must make money somewhere. From time to time condescending gentlemen appear, just to look about them and perhaps to stay should they get into very good practice; and after attending for two or three sessions, they go away thinking that there must be some underhand way of obtaining the business, none of which came to their share, and not suspecting that the prisoners in Newgate have a propensity to inquire into the qualifications of those persons with whom they trust their necks and liberties. In fact there is no open court in England, of which the business is more concentrated.

But, it will be asked, is there no foundation for this prejudice? It cannot be denied that there is some, and that men whose conduct on the circuit and in the civil courts is gentlemanly

and unexceptionable, indulge at the Old Bailey in exuberances which would not be tolerated in any other place. These are reported in the newspapers and excite no small disgust among the reading public, who are hereby requested to turn to the reports, and they will find almost invariably at the top 'New Court,' or 'Old Court before the recorder and a London jury,' that is, before the corporation judges. For the information of general readers to whom the place is unknown, it may be proper to state that there are two courts at the Old Bailey. Two or more of the judges of the superior courts attend from ten till five to try capital offences in the old court, after five they retire, and are succeeded by the recorder and a London jury who sit till nine. In the new court offences not capital* are tried by the Common Serjeant and Deputy Recorder, the judge and jury being changed at five. The counsel are not changed, and those who are in good practice have twelve hours a day of almost incessant labour throughout the session. This produces fatigue, and sometimes less urbanity after dinner than before. The city judges being still at the bar, may have to meet the next day in consultation the same barristers over whom they preside, and are therefore less disposed to check improprieties than the judges of the superior courts, who are removed by their station from the possibility of collision on equal terms. The judges usually sum up the evidence fairly, but most of the city functionaries have been noted for an opposite course, and within living memory it has been necessary for a counsel either to sacrifice the interests of his client, or repeatedly to interrupt the judge by telling him that he was mis-stating the facts. Many instances could be given in which there were no means of checking a garbled statement of the evidence, and the most partial comments on its effect, except by flying in the face of the court, and the successful result of this in a case where it may be almost unavoidable, acts as a premium on future irregularities. This might be remedied by leaving a real judge present, to take care of those who are not fit to be trusted by themselves.

The evening sittings should be abolished. Though our German ancestors according to Tacitus† deliberated upon affairs of state *in convivis*, it is not said that even they, chose such a scene for administering justice. The witnesses are summoned to attend at nine in the morning, and as they are never certain that their

* This is the usual practice, but is occasionally departed from. When no capital case is ready, the judges try larcenies, when larcenies are exhausted, 'capitals' are sent to the new court.

† *De Moribus Germanorum*, c. 7.

case may not be the next called on, they lounge about the neighbourhood of the court, and rest in the public houses, where idleness naturally disposes them to take more refreshment than is necessary. For witnesses there is no proper accommodation. Below the new court there is a spacious room, open on one side to the street; but the old has no place for them except the court yard, a small portion of which is protected from rain by a shed, but is entirely open to the wind. Had the court of aldermen an interest in the opposite public houses, the desire to promote their custom might be ascribed as a motive for this neglect; but as there is no evidence of such interest, it must be put down to indifference to public convenience. However this may be, drinking goes on; and persons of glibbling habits and exaggerating dispositions, have been known to affirm that at more than one evening sitting they have seen the witnesses drunk, the counsel elevated, and the court exhibiting proofs of its freedom from the heresy of the excellence of water.

It is said that the evening sitting cannot be given up, as the expenses to the Lord Mayor and Sheriffs, which are calculated at 50*l.* a day, would be seriously increased. This excuse is one of the effects of paying officers with pomp and perquisite instead of cash. No man should be allowed, far less obliged, to spend his own money in the public service, that which is directly saved, being always paid for doubly in some other way, either in the badness of the work or in jobbing. The public has been too long accustomed to pay for what it does not want, to grudge necessary and reasonable expenditure; but the heaviest item in the account, the dinners, should meet with no toleration. But the character of the city for hospitality must be kept up, and it has been a custom from time immemorial for his Majesty's judges to dine with the City Commissioners, after the labours of the morning. To this may be replied with the law maxim, '*malus usus abolendus est.*' There is no more necessity for the judges dining in state after trying felons at the Old Bailey, than after sitting *in banco* at Westminster, and the propriety of inviting them is only a plea for keeping up guttling and guzzling among the aldermen and common council. These dinners are less expensive than they used to be. Some years ago the gentlemen of the bar received a general invitation; in consequence of which some of the fag-ends of the profession regularly sent their wigs and gowns to the Old Bailey about four o'clock, and appeared just in time to share in that practice for which they were best qualified. The abuse of this invitation led to its abolition; and if the dinners were discontinued wholly, the evening sittings would not be persevered in. The legislature

could not have interfered with city hospitality without hazarding an aldermanic revolution ; but by enacting that no case should be called on after five o'clock, they would have given the sheriffs a fair excuse for not inviting people to stay after the business was done, and have prevented many unseemly exhibitions in the courts. In justice to the two late Lord Mayors it must be said, that they are quite free from the imputation of encouraging intemperance.

The constant presence of a judge would check, and ultimately cure, that coarseness for which the Old Bailey bar has been censured. This court has a peculiar style of cross-examination, which seems founded on the assumption that every prisoner is falsely accused, and all the witnesses against him are conspiring to obtain his conviction. Thus suspicions are insinuated, and warm-tempered witnesses become angry at imputations which take them by surprise, but which are ridiculously familiar to all who have attended the court for one session. Decent persons are not pleased at being treated as if they were accomplices admitted as witnesses for the crown ; and the privilege of the sex not being recognized as a protection against rudeness to a woman in the witness's box, many prosecutors go away with a determination to submit to much injury, rather than appear again and be insulted. This conduct obstructs the course of justice only by preventing future prosecutions ; it neither is, nor is intended to be useful to the prisoner on trial. The juries see through it, and are unmoved ; but it serves as an advertisement of the counsel's strength of lungs and impudence of face, and satisfies the client that though convicted, every thing has been done for him that his case would admit, and on going back to the gaol, he says, ' What a fine fellow Counsellor Leathersides is ! How he made the Court ring again ! ' Notwithstanding this, the regular attendants at the Old Bailey are not deficient in law, talent, or even good manners ; as may be seen by any one who will be at the trouble of watching their conduct in other places.

If the bar requires amendment, the attornies and those who practise as such need a thorough reform. In this court, some few attornies may be found of the highest character and respectability ; but as every person who pleases, may manage a prosecution or defence if he can find any one to employ him, a considerable portion of the gaol business is in the hands of some of the most disreputable individuals in the metropolis. Attornies who have been struck off the rolls, discharged penny-a-line men who have obtained a prison connexion while themselves under confinement, in short the worst description of agents that can

be found, call themselves solicitors here, and take their places as such in court. Now there can be no doubt that in the superior courts, a salutary check to dishonesty in this branch of the profession exists in the power which the court exercises of striking off the rolls those against whom gross misconduct is proved. Whatever may be said in favour of such a course in a civil court, may be applied with additional force to a criminal one. A plaintiff or defendant at Westminster has time and opportunity to chuse his attorney. He can make inquiries as to character and ability, and if deceived, will be so in nineteen cases out of twenty by his own want of care. But a man in gaol, unless rich and able to pay handsomely, must make his choice out of the few that offer. In a majority of prison cases, no care is taken to sift the evidence, or to bring forward witnesses for the prisoner, a slovenly statement is drawn up in the form of a brief, consisting of loose general protestations of innocence, compliments to the great talents of counsel, intimations that policemen are not to be believed upon oath, and a direction to call the prisoner's friends who will give him a good character. The brief is then delivered, and the counsel recognizing the common form, assumes correctly that his instructions are worthless, and occupies time by beating about with frivolous questions to get at a few of the real facts. The drawer of the brief having extracted the last shilling from the prisoner's pocket, gives no further attention to the case, and during the trial the prisoner has no means of communicating with his counsel except by writing, a process at which few are apt, especially under such exciting circumstances. For any neglect, there is no redress. If the prisoner is convicted, he is removed before fresh inmates arrive at the gaol, and his legal adviser's reputation does not suffer, if acquitted, he goes away too much pleased to inquire into the causes of his escape, or how near he was to conviction*.

If may be asked, would you insist upon forcing poor persons to remain undefended, if they cannot find money to employ a regular attorney? Certainly not, but no person ought to be allowed to communicate with the prisoners in that capacity, till his name had been enrolled in a book to be kept by the clerk of

* For an account of the internal arrangements and discipline of Newgate, the reader is referred to a series of papers which appeared about two years ago in *Fraser's Magazine* under the title of 'The Schoolmaster's Experience in Newgate,' said to be written by a temporary inmate. All the statements deserve attention, those as to the gaol were made from his own observation, and are stated on good authority to be accurate, those on the proceedings in court, being taken from report, are often exaggerated.

the court, and from which he should be subject to be struck, on complaint and investigation, by any two of the superior judges;—not any two of his Majesty's Commissioners, for that would strike out a new branch of trade in the article of Newgate attornies. Three months notice of intention to practise, and testimonials or security to a small amount, might be required; on complying with which conditions, admission should follow as a matter of course, on no cause to the contrary being shown. Even as the business is now done, it may be presumed that most prisoners pay as much, and many a great deal more, to the irregular, than to the regular practitioners. An attorney of character, if asked the amount of money necessary for a defence, states it at once; but a rogue regulates his demand by what he supposes the prisoner can give, and by the chance of squeezing more from him and his friends between the agreement and the trial. Practice in the criminal courts does not extinguish every liberal and humane feeling; and a case of real importance, seldom goes undefended by a respectable attorney, merely because the prisoner has only enough to pay a worse.

It is not enough that no impediment should be thrown in the way of a prisoner in making his defence; he should receive every practicable accommodation. So far from contributing to the escape of criminals, this would be one of the most effectual means of securing their conviction. By the old law our lord the King being, as he still is, the public prosecutor, witnesses were not allowed to be called to contradict the King's witnesses. By degrees (see 4 Blackst. Com. 360) this absurdity was given up, not by positive law, but by connivance, which afterwards ripened into law; for 'the courts grew so heartily ashamed of a doctrine so unreasonable and oppressive, that a practice was gradually introduced of examining witnesses for a prisoner, but not upon oath, the consequence of which was, that the jury gave less credit to the prisoner's evidence than to that produced by the crown.' It may also be worthy of observation that the first law (Stat. 4 Jac. I. c. 1.) which established the right of parties arraigned to have their witnesses examined on oath, was carried by the Commons 'against the efforts of both the Crown and the House of Lords, against the practice of the courts of England and the express law of Scotland.' The law then being almost universally acknowledged too hard upon prisoners, public and even official feeling was enlisted on their side; and counsel made, and judges encouraged, every possible objection to the words of the indictments, for 'God forbid that the accused should not have the benefit of the law when it is in his favour.' The mistake of the clerk of the indictments in stating

an offence to have been committed 'against the form of the statute' instead of the 'statutes' (R. v. Collins, 2 Leach 970) was seriously discussed; and 'against the peace of our lord the King,' instead of 'our lord the late King,' when the crime was of a former reign, was held to be fatal (R. v. Lookup 3 Burr. 1901) after conviction, and the prisoner was discharged. Absurdities of this sort swarm in our reports, and they arose from the knowledge that the law was too severe; juries seconded the efforts of the judges, and declared upon their oaths that a 50*l.* note was under the value of 40*s.* if stolen in a dwelling-house. Much of this is got rid of, but enough remains to encourage offenders to put their trust in flaws, and there is still harshness enough to keep up a suspicion that the prisoner has not had fair play, which is easily excited in the jury by a counsel of ordinary adroitness.

The prisoner, on being committed for trial, or as soon as possible after his committal, should be furnished with a copy of the depositions before the magistrate, that he may know with what he is charged, and the evidence that will be brought against him. The present practice at many of the police offices is, for the witnesses after giving their evidence to retire to the clerk's room, where it is taken down in a formal shape, and then signed by them and read to the prisoner. A man in alarm and confusion, as will be the lot of most men when first charged with felony, cannot be expected to carry away in his memory all that has been sworn against him; and the more falsehood there is in the evidence, the less he will remember. The expense would not be heavy, as one additional clerk at each office would suffice.

The new Act (s. 12) provides for the payment of costs and expenses of prosecutors and witnesses in all cases where prosecutors and witnesses 'may be by law entitled thereto.' This is the old principle of the King's witnesses. The law should be as favourable to the proof of innocence as to the proof of guilt; and a man who is falsely accused should be not only protected but compensated for his sufferings at the public expense. A prisoner has no means to secure the attendance of witnesses. If he has money and can employ an attorney, a Crown-office subpoena is often treated with neglect, from a well-grounded notion that no further proceedings will ever be founded upon it, and a knowledge that the witness must attend at his own expense. But if a person has no money, he cannot even obtain the subpoena, or get it served if he had it. Under these difficulties, it is not less surprising to the observer than creditable to the character of the poor, that so many witnesses wait often

from the first to the last day of the session, under every privation and inconvenience, at a prisoner's request, to prove some fact in his favour, or to give him a good character. No doubt it would be necessary, were such witnesses allowed their expenses, to exercise considerable judgment in discriminating between those who would come to prove something, and those who would come for a holiday and their pay. An officer might be appointed to hear the prisoner's case in the gaol, and to decide upon what witnesses he should be allowed to subpoena at the public charge.

In *Rex v. Francis*, New Court, Old Bailey, October 30th, 1827, the evidence for and against the prisoner had appeared so equal to the committing magistrate, that he bound over the witnesses for the defence as well as for the prosecution. The prisoner was acquitted, but though the court thought his witnesses ought to be allowed their expenses and took time to consider, it was found that there was no law to sanction such payment. For the prosecution, expenses are allowed to all who are bound to appear, provided they do not misbehave; and it is curious to see the ingenuity with which policemen have learned to make additional links in the chain of evidence, by handing over to each other portions of the property stolen. To a person accustomed to their proceedings, the scene in 'The Drummer' where one servant brings an inkstand, another a sheet of paper, and a third a crow-quill pen, would not appear a burlesque.

Proper provision should be made to secure the separate examination of witnesses, a measure which has been found useful since the time of Daniel. Speaking the 'truth, the whole truth, and nothing but the truth,' is an accomplishment which can be acquired only by intense care and perseverance. There is a great difference between wilful and incidental lying; but every man who has made any observation on this point must be aware, that much of that which he hears from his friends, and even of that which he says himself, is not true. It is so much easier to draw upon the imagination than the memory, that a person who has not cultivated his veracity, when called upon to state circumstances which he has not particularly attended to, even when of recent occurrence, is more likely to be wrong than right, although his intention may be to speak with great precision. In cross-examination, a witness is often asked about matters to which his attention was not directed. If a man is threatened with a bludgeon and then knocked down, he will probably be able to describe the stick and its effects, but the more powerful the impression and consequently the recollection of these, the weaker will be that of all concurrent circum-

stances. In cross examination he is asked, what was the colour of the assaulter's waistcoat? Had he boots or shoes, &c.? He does not remember, but having seen the prisoner shortly after the assault, and then noticed his dress, the two events are jumbled in his mind, and the answer is given untruly. It is curious to observe in trials whether civil or criminal, how much witnesses mix up that which they have seen with that which they have heard, and how the first witness gives the tone to those who follow. They hear his answers as to events which they had not thought upon since the time when they occurred, their memories are partially refreshed, and they swear upon insufficient recollection. It sometimes happens that there is more discrepancy upon the matter at issue than upon the attendant circumstances, when the witnesses are all in court throughout the trial, but never when they are separately examined. The result of this is, that too much importance is attached to minutæ, and prisoners are improperly convicted or acquitted, according to the agreement or disagreement of witnesses upon facts which they cannot remember. This is sometimes corrected by the experience of the judge, but more frequently aggravated by his incapability of taking more than a technical view of the human mind.

It may be said that it is optional with the parties to have the witnesses in court or not. It is in the discretion of the judge to order them out on being requested, and the application is granted immediately as a matter of course by all the judges, except one, who often refuses because it 'wastes time, and excites prejudice.' The first objection is of no importance. Time is never wasted when employed in coming at the truth, and if one-fifth of what is occupied in gossiping with aldermen on the bench were sacrificed to public business, all the witnesses might be separately examined and the court use some minutes sooner every day. In the second, his lordship has deviated into sense. The separate examination being unusual, is taken by the witnesses as an imputation on their honesty, and their evidence becomes tinged with the prejudice even though they are anxious to suppress it. Sometimes the case for the prosecution being finished, on the prisoner's counsel calling a witness he is asked if there are more, and if so they are ordered out. This in cases of contradicting testimony, and those in which an *alibi* is set up, is necessary, but it does not seem fair that the witnesses on one side should have an opportunity of confirming each other, of which those on the other side are deprived. The remedy is obvious,—the separate examination in all cases whatsoever whether desired by the parties or not. Should this ever

be adopted, proper arrangements must be made to secure a real separation, instead of the present plan which consists merely in ordering the witnesses out of court, and keeping in court those who have been examined, to prevent their communicating with the rest. At the *Nisi prius* sittings in London or Westminster they are turned out into the hall or passages; at the Old Bailey into the yard; and there are no means of preventing the parties or their agents from communicating to those without, all that has been sworn by those within, and thus the effect of many an important cross-examination is destroyed. Every court might be provided with a room into which the witnesses on both sides should be sent on the case being called on, and an officer should attend to prevent any communication from without; and as witnesses are frequently recalled, another room should be ready to receive each on his descent from the box. It is not unusual for an attorney to be sent during the progress of a case, to ask one of his witnesses what he will swear upon a certain point. This should not be allowed. If the attorney has done his duty, he has already inquired abundantly; and the permission to communicate thus, acts as an excuse for negligence in getting up the case, or for a prompting of perjury while it is going on.

Some persons will say that too many offenders now escape, and that these suggestions if acted upon, would increase the number. Not, if acted upon universally. It is important not only that the administration of justice should be pure, but that like '*feu madame Jules César*' it should be unsuspected. Not only should the public believe that the prisoner has been fairly tried, but he should himself be brought to the same opinion. However bad the case may be, his witnesses should not be insulted, nor should his defence be argued against and ridiculed in the summing up. While this is continued, and while so many are acquitted, those who are convicted will think that they had had luck and a bad judge, and leave the dock with feelings of resentment, in which many of the audience will sympathize. Such sympathy must have been observed by all who are conversant with our criminal courts, operating powerfully on juries. Remove all appearance of harshness or unfairness, convince everybody that the truth only is sought, and the number of convictions will bear a much greater proportion to that of acquittals than it does at present.

If the abuses above enumerated exist, the Bill, good as it may be, is premature. It is putting new wine into old bottles without washing; if for want of room it does not burst the bottles, it will at all events acquire the smack of the

dregs. That which is managed by a corporation, almost inevitably becomes corrupt; and there is not discoverable any antiseptic principle in the Act, which can secure the Central Criminal Court from partaking of the surrounding putrescence. The same folly of keeping an alderman on the Bench, and sometimes stopping the proceedings of the Court till one can be found, will continue. This duty is irksome to the individual, and at best useless to the public. It has been said, that although the aldermen are mere dummies in Court, it is right to make them sit there, that they may pick up some law to use in their office as magistrates. At first view this seems plausible; but a reference to the police reports will show so little difference between the decisions of the senior and junior of the worshipful Court, that though it might be thought presumptuous to say that an alderman attains 'absolute wisdom' when he first puts on his gown, yet there is no evidence of any subsequent improvement. There, however, they must sit, reading the papers, yawning, watching the opposite clock, glad to shift off the duty upon one another, yet unwilling to give up the right, because to do so would be in derogation of the privileges of the City of London. Give up one privilege, they say, and you imperil the rest. Great pity for them, that they rejected Mr. Alderman Scales; he, who dressed a donkey to look like a calf, might have supplied mock aldermen from the same material, and relieved his brethren from performing in person. In court, however, they are merely unsightly, inasmuch as in a place of business those things which are not useful are ugly; the mischief which they do, is in private. Corporation reform is coming, and the change of ministry cannot long delay it. Some of its first fruits ought to be a further and thorough reform of this Court; the providing proper accommodation for all parties attending on business; the limitation of the sittings to reasonable hours; the presence of men on the Bench of sufficient weight to protect witnesses, and enforce good manners or at least decency; and above all, the exclusion of men from it, whose ignorance or incapacity may tend to make the administering of the law odious as well as ridiculous.

The Central Court has held two sessions since the preceding portion of this Article was written. The gaol-delivery is more frequent; but so far as relates to any improvement in the administration of justice, the failure is complete. The privileges of the City of London remain inviolate; and the most important change which the civic authorities have made, is sewing the Calendar of Prisoners in a drab wrapper instead of a blue; a type, perhaps, of the safe and sober Reform to be received from

the newly-converted ministry, and certainly as much as could have been reasonably expected from a corporation engaged in the correction of its own abuses. By the 4 & 5 W. iv. c. 36, the Lord Chancellor, the Judges of the King's Bench, Common Pleas, and Exchequer, the Judges in Bankruptcy, the Judge of the Admiralty, the Dean of the Arches, and all retired Chancellors and retired judges of the superior courts, were constituted judges of the Central Criminal Court, and one of the strongest arguments in favour of its establishment was, that some out of so large a body would always attend, and by their presence secure its respectability, and give authority to its decisions. The times of holding sessions were fixed for a year on the 1st of November, and each session is to begin on a Monday. In the two which have been held, none of the superior judges appeared till the Wednesday, and the business of the first two days was done by the recorder, common-seigneur, and deputy-recorder. On the Wednesday and following days, the judges came at ten and stayed till five in the Old Court. On one occasion only has a superior judge honoured the New Court with his presence. On the 1st of December, all the business being done except a trial for misdemeanour and a case of alleged piracy, as the misdemeanour seemed likely to occupy many hours, Mr. Baron Bolland was induced to take the piracy in the New Court. This Court, which has already been pointed out as the chief seat of improprieties, is thus given up to the City judges, and while it continues in their hands, no hope of amendment can be entertained.

The absurdity of making the value of property stolen the measure of punishment, has often been exposed, but the judges seem to think, that it also is the standard of gentility. Small felonies are beneath their notice, and it does not signify how stealers of handkerchiefs and embezzlers of half-crowns are tried. If that is their notion, the Home Secretary should give them a broad hint, that justice should be done everywhere. It is not, however, improbable, that the objection to their sitting in the New Court originates in the Court of Aldermen, who have shown so strong a dislike to publicity. Cases of sea-traps are continually being exposed. One curious instance of long endured extortion, was successfully resisted at the first session of the Central Criminal Court. The Grand Jury found a gown on each chair in their room, for which a demand was made of a guinea from each, except the foreman who was complimented by being required to pay two,—and were assured that no bills could be presented in court, except by persons in gowns. The foreman, however, being a person of some experience, was deter-

mined to try the question, and had courage enough to take his bills in his ordinary dress. They were not objected to, and thus a place which enabled its holder to levy twenty-four guineas twelve times a year was rendered of no value. When a barrister is promoted to the bench, he abstains from giving an opinion on any case in which he has been consulted as counsel. Since the establishment of the Central Criminal Court, one of its judges has exhibited his name as an attorney within half a dozen doors of the Sessions House. This perhaps would not have been hazarded anywhere, except in the City of London. When a prosecutor applies to his own attorney for his expenses, he need not expect to be treated parsimoniously. Where such things are, the judges of the land, who, whatever their faults may be, are free from the suspicion of selling law, must be unwelcome visitors. From a corporation which endures such things, no relief can come; the legislature alone can abate the nuisance, which is surely as offensive to public decency, as the effigies of bishop, tax-gatherer, and gentleman in black.

ART. XLV.—*Procès-Verbaux des Rapports de la Commission d'Afrique instituée par Ordonnance du 12 Décembre 1833. A Paris, de l'Imprimerie royale, 1834.* Communicated by the Ministry to the Members of the Chamber of Peers, and of the Chamber of Deputies.—4to. pp. 539.

LOUIS Philippe, on receiving the Report of the President of the Council of Ministers, decided on the 7th July 1833, 'that a Special Commission should be appointed to proceed to Africa, to collect any important facts which might tend to the information of Government relative to the actual state of the country, or the measures indispensable to its future welfare.' The Members of this Commission, Lieutenant-General Count Bonnet, peer of France, President; the Count d'Haubersart, peer of France; Messrs. De la Pinsonnière, Laurence, Piscatory, Reynard, Members of the Chamber of Deputies; De Montfort, Maréchal de Camp and Inspector of Engineers; Duval d'Ailly, Captain in the Navy; were, on their return, to join a more numerous Commission, which was carefully to examine the information obtained, and make a detailed Report thereon to Government. The former Commission reached Algiers on the 1st September, and immediately proceeded on the mission confided to them. They not only visited the environs of the town, but travelled as far as Belidâ at the foot of the Atlas, and from thence by sea to Oran, Arzew, and Bona. They endeavoured, without success, to disem-

bark at Mustaganim; and several of them landed at Bougie, of which a French expedition from Toulon had lately taken possession. The result of their inquiries and observations having been presented to the President of the Council of Ministers, the second-named Commission was instituted by Proclamation of the 12th December 1833. Its members are the Duke de Cazes, peer of France, President, Lieutenant-General Count Guillemot, peer of France, Baron Monnier, peer of France, M. Duchatel, Privy Counsellor and Member of the Chamber of Deputies, M. Dumont, do. do., M. Passy, Member of the Chamber of Deputies, the Count de Sade, do., M. Baude, do.; Lieutenant-General Bernard, Aide-de-camp to the King; Vice-Admiral Ducampe de Rosamel, Baron Volland, Intendant Militaire.

This new Commission, composed of nineteen Members, began by carefully examining all the documents brought from Africa by the former one. The *procès-verbaux* of all the sittings were read to them; the French and Moors, then in Paris, and many other persons whose evidence was deemed useful and important, as also several other individuals who had volunteered to communicate certain facts, or give certain necessary explanations on various subjects, were severally heard by them. They then discussed all the questions specified in the instructions furnished by the President of the Privy Council to the first Commission at the period of their departure for Africa; and after forty successive sittings, they drew up a Report of all their proceedings, which is divided into two distinct parts. The first contains the discussion of the fundamental points, the evacuation or continued occupation of Algeria, the extent to be given to that occupation, and the form of government most proper to be adopted for the French possessions on the coast of Africa. The second part of the Report relates to the civil administration, justice, finances, and contains the decision of the Commission relative to several private questions on which they had previously been consulted. The Commission, by a majority of seventeen to two, were of opinion that 'France ought to retain its possessions on the northern coast of Africa.' They were almost unanimous on this fundamental resolution, but differed on the proper system to be adopted for the occupation and government of these possessions. There were various opinions on this subject, the principal maritime places only might be occupied; or the conquest might be extended, and an expedition sent into the interior to subdue the province of Constantina; or an intermediate system might be fixed upon, a kind of medium where equal advantages could be

reaped from the two extreme plans; or the towns now occupied might be retained, and the neighbouring territory gradually extended on every favourable opportunity.

After a somewhat lengthened discussion, it was unanimously agreed on, that in its execution, the system was to allow of nothing absolute; that by economizing the resources of the present, the access of future prospects must not be debarred. The Government must preserve the fortified towns, as also the territory round those towns, which would easily be defended by troops. Government must also endeavour to extend the authority and influence of France, by combinations in perfect harmony nevertheless with the right of conquest by which the authority of France has been substituted for that of the Regency, and guided by the rules of a humane and enlightened policy. The Commission having adopted this basis, it remained only to apply it to the different parts of the territory of the Regency which are at present in the possession of France. The Commission entered into a serious discussion on this important subject, and at length drew up and signed the following resolutions.

‘ The Commission are of opinion

1. ‘ That for the honour and interest of France, the possessions on the northern coast of Africa must be retained,

2. ‘ That in maintaining the right of France to the sovereignty of the entire Regency of Algiers, it will be proper for the present to confine the military occupation to the towns of Algiers, Bona, Oran, Bougie, and a certain designated territory in advance of the two former places.

3. ‘ That the territory occupied in front of the town of Algiers, must be protected by a line of military stations, extending from the chain of the Atlas at Belida on the neighbourhood of that town, to the sea side, on one side in the direction of Cape Matifou, and on the other towards Coleah.

4. ‘ That the territory occupied in front of Bona must also be flanked by a line of military outposts, extending from the extremity of Lake Elzara, passing through Side-Danden to the mouth of the Mafing

5. ‘ That the general object of the fortifications to be constructed, is to place the towns and outposts in a state of defence against the attacks of the native hordes, and that works of regular fortification can for the present be dispensed with

6. ‘ That the effective military force must be reduced on every possible opportunity, and remain limited to 21,000 men, who are to be thus distributed

For the defence of Algiers and territory.....	12,000
For that of Bona and territory	4,000
For that of Oran	3,000
For that of Bougie	2,000

7 ' That it will be necessary also to employ corps of natives as an auxiliary force to the French garrisons, and to compel the native tribes to furnish their share of these troops, which would only be entitled to receive pay during active service

8 ' That all matters which in France are settled by the legislative power, should likewise be so in the French possessions situated on the northern coast of Africa, and in virtue of royal proclamation previously deliberated in the council of ministers, and that to this effect, a law should be passed to delegate the legislative power in these possessions, to the King in person

9 ' That a Governor General, invested with authority and civil power, be appointed to these dominions, that his powers be regulated by royal proclamation sanctioned by the council of ministers, as also by the instructions he will receive relative to the general administration of government

10. ' That the King's orders relative to every part of the service, should be transmitted to him by the Secretary of State, President of the Council of Ministers, only, but in all financial and judicial matters, the Governor General should correspond directly with the ministers of those two departments

11 ' That the authority of the Governor General, who should reside at Algiers, extending over the whole possession, the commandants of Bone, Oran, and other places, should be under his immediate orders, and communicate with him alone

12 ' That the civil administration be exercised under the orders of the Governor General, and by his administrators residing at Algiers, Bone, Oran, and Bougie, who will severally keep up a correspondence with him

13. ' That the regulations established in France relative to the division of the civil and military departments, must be observed in fixing the duties of the commandants and their administrators, and that the Governor General should have the right of delegating to any of the military commandants of different stations, any portion of his power he may deem requisite

14 ' That the first duty of the Governor General should be to guarantee the persons and property of the inhabitants, and liberty of religion, to protect agriculture and commerce, on no account to have recourse to military force, except for defence against the attacks of the natives, but no expedition with intent to extend the occupation beyond the given limits, to be undertaken without a previous order from the King

15. ' That, nevertheless, the Governor General should seek by all other possible means to extend the dominion of France over all the parts of the country which are yet unsubdued

16 ' That it will be desirable that the Governor General be assisted by a council consisting of the General Commandant of the garrison of Algiers, a judicial functionary appointed by the King, the Military Intendant, and the Director of Finances.

17. ' That a special budget for the government of Algiers should

be voted; this budget to detail the total amount of expenditure for the French possessions on the northern coast of Africa.'

The foregoing are the official resolutions definitively agreed upon, and fully detailed in the General Report of 10th March 1834.

The next object is to examine the important discussions which have taken place in the numerous sittings.

The first sittings, namely those from 22nd December 1833 to 23rd January 1834, are of little or no interest. In that of 24th January 1834, M. Pichon was introduced, and made the following statement in reply to various questions put to him by the President.—

'I resided five months at Algiers. All that I saw of the country and inhabitants during that period has fully convinced me that the word 'colonization,' at least in the sense given to it in France, is erroneous as far as relates to the French possessions in Africa, inasmuch as the settling of a colony of cultivators in that country is impossible. I am of opinion that for the present it will be better only to persist in the occupation of Algiers, Bona, and Oran, as the most important maritime positions on the coast of Africa. We can try cultivation in a range of country near these points; but, above all, let us not attempt colonizing on the plan of the settlements in America. The two countries cannot be assimilated, not only on account of the different nature of the soil, but also the difference of manners and customs of the inhabitants. Any attempt to settle beyond the territories defended by the three places mentioned, would prove fruitless to the inhabitants, and ruinous to France. The surest means of destroying the future prospects of Algiers, would be to attempt to over-extend the territory already in the possession of France, and to continue on the same plan as at present. I will ask one question;—What benefit has been derived from the works executed, and the money employed to colonize those possessions, for these four years past?

'I certainly conceive that our possessions at Algiers will hereafter enable us to command the whole of Africa; but then it must be on the same system that the English govern in India, where they wisely rejected any attempt at colonizing, which measure would have finally driven them from that important country. For a century and a half that they have retained possession of that part of the world, they have never suffered their countrymen to settle within the boundaries of the twenty-four districts given up to them. This system is in no way similar to that adopted for settlements in America, and still the analogy is continually insisted on. In Africa you will find warriors accustomed and well trained to war, and who will seek every opportunity of satisfying their propensity, but are naturally uncontrollable. In America the invaders found wandering tribes settled here and there over a vast territory, flying, or submitting to their arms and their civilization, naturally of a pacific disposition, and willingly submitting

to their demands. In Africa the inhabitants are all cultivators or graziers: they occupy and possess small portions of the territory, for instance, the Kabales live in the mountains which they inhabit, in huts surrounded by a small spot of cultivated ground. The American natives were all huntsmen, and willingly gave up the land.

In the sitting of 25th January 1834, M. de Damrémont was examined before the Commission. The substance of his evidence was as follows.—

‘I am of opinion, that Government ought not to interfere in the colonizing of the country further than to afford every encouragement to persons who may wish to risk their capital in the propagation of industry, or to protect any works executed on the territory of Algiers. The country is too populous to depend on the natives to cultivate the land, and the neighbouring tribes will never contribute to the cultivation of those districts they do not inhabit, unless by sending occasionally a few hands to assist. But when once confidence is fully established, colonists will flock to the country in abundance, and the landowners will be glad to have them settle on their property, or even have no objection to make over certain portions of their property to them on fair terms. To support my opinion, I will state to the Commission some information which I collected while at Marseilles, and which may be considered authentic. Several opulent Swiss merchants established in that city, often intimated to me that if they were certain that these possessions would not be given up, they would purchase land for those of their countrymen, who finding no means of existence at home, are obliged to quit their native land, and would prefer Algiers to America on account of the immense distance of the latter country. I will add as my firm belief, that the commercial portion of the community at Marseilles, who are exceedingly prudent, and very rarely speculate on matters of chance, would become purchasers of portions of the territory of Algiers and Bona the very day that an official communication from Government should make known the positive intention of the King’s Ministers relative to the French possessions on the coast of Africa.

The President.—‘What effective force do you conceive would be necessary to keep Algiers and the neighbouring possessions within the limits you have designated?’

M. de Damrémont.—‘I think that fourteen thousand men would be sufficient to protect the colonists, afford them complete security, and execute the necessary sanitary works.’

In these first sittings the debates of the Commission were frequently interrupted by the necessity of referring to the means which had been employed to obtain power in Africa, which means were, on several occasions, highly censured, and severe measures adopted to prevent further abuse. M. Pichon is again called to give information on this subject. Interro-

gated by one of the members as to what he knew relative to the military execution of the tribe of El-Ouffia and their Sheik by order of the Duke of Rovigo, M. Pichon made the following reply.

' You there remind me of a most unfortunate event which it was totally out of my power to prevent, in spite of my utmost endeavours to that effect. The following were the motives of the Duke of Rovigo's extreme severity on that occasion. Our most distant military post on the left of Algiers, is that called the Maison Carrée. Part of a small tribe called El-Ouffia had settled within cannon range of this fort; but the greater part had remained in the mountains. On the 5th of April, 1832, the Duke of Rovigo granted an audience to several Arabs, who stated themselves to be deputed by the tribes of the desert to establish a friendly intercourse with us. The General received them with kindness, and made them a present each of a red mantle and fifty francs in specie. They departed satisfied; but on their arrival on the evening of the 6th at the Maison Carrée, they were attacked by some wandering Arabs, who, calling them cowards and traitors to their country, plundered them, and drove them back to Algiers. On hearing this, General Rovigo secretly ordered out 800 men, who proceeded in the night of the 7th to the Maison Carrée. The troops surprised and massacred all they met of the unfortunate tribe, and seized their cattle and the whole of the plundered property in their possession. Several soldiers, I am told, on their return, carried on their bayonets a number of women's ears with jewellery hanging in them.'

' Eighteen were made prisoners and among these was the chief of the tribe, a Marabout, he was tried by a Court-martial and condemned, and his appeal was rejected by the *Conseil de révision*. On the eve of the day of execution, which took place on the 19th of April, twelve days after the expedition, several of the neighbouring tribes deputed messengers to solicit the pardon of their countrymen. All the stolen property had been brought back to the General. But in spite of their entreaties, my own and General Fiezels, and the supplications of the Tribe of Krachmas where the offenders had taken refuge, the pardon was refused, and the unfortunate man executed. In this expedition neither men, women, nor children were spared.'

These are the kind of things which make the name of Frenchmen hated throughout Europe; and all that their friends in more civilized countries can do to hinder it, is utterly thrown away. Every one of these 'women's ears,' was worth a regiment to Wellington; and the murders in the Rue Transnonain, were better to the Holy Alliance than a hundred thousand men. Every man and officer concerned in them, ought to go to Gratz and ask for the Order of the Holy Ghost. It would be all in the fitness of things.

One of the members of the Commission having inquired of

M. Pichon if there had not been public rejoicings at Algiers after the attack on the tribe of El-Ouffia, that gentleman replied that the Commissary of Police had ordered illuminations to celebrate the victory.

The Commission in its sitting of 24th January 1834, acknowledged that it would be an act of strict justice to grant an indemnity to all proprietors of land or buildings taken for the public service, and that a similar indemnity should be granted over the whole of the possessions occupied by the French; and that it would be bad policy and unfair to grant it to French claimants and not to natives.

The sanitary measures to be adopted also occupied the commissioners in their early sittings. M. Maurice, proprietor and colonist of Algiers, declared that the German workman had as yet been unable to stand the climate, and whether from intemperance or other causes, mortality had been greater among them than those of any other nations. M. de Damiémont is of opinion that the decrease of the garrison of Bona in 1832 and 1833 by malady, must not be solely attributed to the climate. In the action between the Turks and the inhabitants, the town was almost totally destroyed, and when the French took possession they were unable to find shelter from the inclemency of the weather. The soldiers were lodged in damp houses, and there was no time to cleanse the town and empty the cisterns and wells of the dead bodies which had been thrown there by the Turks. A few troops being sufficient to guard this position, it would perhaps have been prudent to have stationed only two battalions there in the first instance; these would have prepared for the reception of others, who then could have been lodged in healthy and dry quarters. A foraging expedition made at an unsuitable time of the year, with the bad management and insufficiency of hospitals, no doubt greatly contributed to disease among the military; to prevent which, sure means will no doubt be resorted to this year, owing to the experience which has been acquired, and the amelioration effected in the condition of the troops. From the extensive operations of the staff and engineers, it may be inferred that the cleansing of the vast plains around Bona may be effected with little trouble or expense. This measure is of the most urgent necessity.

From the 27th January 1834, the debates of the Commission become animated, and relate more particularly to the colonizing question, and without being interrupted by so many unimportant incidents as before. One of the members, in a most vehement discourse, makes the following observations on the policy of Europe with respect to Algiers.

'In France we have nothing to fear. The present state of our finances alone give us cause of uneasiness. Is it at a period when we can with difficulty establish an equilibrium between our receipts and expenditure, when it is impossible to foresee when we shall be able to attain this object, that we ought to think of such exorbitant extraordinary expenses?' Take care that an annual deficit be not the most likely produce of our boasted colony. Fortunately we have peace abroad, and have no reason to fear that it will be interrupted for some time to come. But the two hostile principles which divide Europe, cannot fail sooner or later to cause a general war. If we persist in retaining our colony, we must make up our minds to be deprived of the aid of 40 millions of francs, and 10,000 men. We must ultimately be obliged to abandon it, and shall not be able to do so without its being attended with serious disadvantage or perhaps opprobrium.'

'Have we not fresh in our memory our former foolish expedition to Egypt. At that period, France was within a hand's breadth of her downfall, through having been deprived of her best general and her best army. The circumstances are not exactly similar, but are of striking analogy. It is evident that the very limited plan of colonizing which has been proposed to you, will take more men and money to execute than the author flattered himself in his calculation; but should it even prove more advantageous than anticipated, it will always be impracticable. The change of system of a minister, the ambition or even interest of a governor, the local influence and the combined efforts of the interested parties, who will not fail to be incessant in urging us to go forward, will in the end force our colonizing measures beyond the boundary which we would in vain seek to oppose to their further progress.'

Another member vehemently opposes these arguments.

'The retaining our sovereignty over Algiers,' he says, 'according to the person who preceded him, offers neither political, commercial, nor military advantages, or if any, by no means proportionate to the sacrifices they will require. I am on this question of a directly opposite opinion. In sending an expedition to Algiers there were several objects in view. The first was to abolish piracy, and so far the expedition has succeeded to the utmost; but then the future prospects must be insured, there must be the same guarantees then as at present. France has already felt the immense advantages of the stimulus given to trade by the newly acquired security of the Mediterranean. The tonnage of our vessels in 1825, the year which preceded the blockade, amounted to 1,323,179, and in 1832 had increased to 1,796,885; this immense difference must be attributed in part to the general progress of the several branches of commerce, but this progress has been equally important in the Atlantic and perhaps ought even to have been still more so. Our principal rivers, our richest provinces, join it, and it is through its medium that the trade of our capital is carried on. But the tonnage of the Atlantic in 1825 was 1,370,342, and in 1832, 5,021,284; therefore it increased in the proportion of 1,000 to 1,149, while that of the Mediterranean

increased in the 'proportion of 1,000 to 1,357 ; certainly it must be allowed that the destruction of piracy contributed in part to this advantageous result in the latter. It is very probable that Spain, Italy, and the other states which border on the Mediterranean, have profited still more by the security afforded to trade. In this respect they have infinitely more to gain, for their traders were much more harassed by the pirates than ours ; but the prosperity for which they are indebted to us, is refelt on the coasts of France. In 1833, at least according to the official returns of the first quarters, the above mentioned benefit will be still greater. Now if I am not greatly mistaken, the consequences of the Algerine expedition will not place us in that awkward situation with regard to the other powers interested in the security of the Mediterranean, which persons would insinuate. The very great extension given to the commercial intercourse of those powers among themselves or with us, will give them fresh reason to desire a continuation of peace. Spain, Italy, Russia, Austria will be glad to see a new civilized power established on the northern coast of Africa ; new and important interests connected with their own, in the navigation of the Mediterranean and our sovereignty at Algiers, will constitute one of those questions which diplomatists call separate, and which, for the very reason that we perfectly agree with respect to them although we are at variance with respect to other matters, will be as it were placed in reserve to await a final settlement. I allow that we shall not derive any military advantage from our Algerine possessions, unless our colony be founded on the remodelling or total destruction of the native tribes, or to be more explicit, be in a continual state of open hostility ; and this state of things would necessarily employ a considerable body of troops which might be indispensable in other parts ; and this, according to my ideas, is sufficient to determine me to give my assent to no other system of colonizing than that founded on a state of peace. But be it as it may, the possession of Oran alone, affords military advantages far superior to what it costs us.'

'The disposition of Spain towards us has always given cause of uneasiness whenever we have been threatened upon our northern frontiers, or upon that of the Rhine. This latter power, after the revolution of July, showed very hostile intentions towards us. Oran and the road of Mers-el-Kebir would be a point well adapted to annoy Spain towards her southern frontier, which would have the effect of drawing from the Pyrenees troops which she might wish to send to attack us in that quarter. If on the contrary we are at peace with Spain, ships of war or privateers might on occasion pass into the roads of Mers-el-Kebir or Carthage, and cut off our enemies from all communication with the Atlantic and the exterior basin of the Mediterranean. Certainly the expense incurred in the occupation of Oran, does not exceed the value of the guarantees it affords us against Spain in the event of any attempt on the part of that country to molest us. It is impossible to speak of our policy abroad, without referring to the state of our affairs at home. Our influence abroad, depends solely on the union of the government with the nation. It is in

the southern provinces that the revolution of July has the fewest partisans, it is there also that the restoration had the deepest roots. What would not be the effect on the population of these provinces, if the present government were to abandon a country conquered by that we have overturned? The opinion of Marseilles, that metropolis of our Mediterranean coast, possesses vast influence in the south; and on the tranquillity of that city depends that of several whole departments. Marseilles has grown less exasperated, since its speculative views have been directed to the coast of Africa. You cannot expect that a population which is as yet but very indifferently inclined towards the present dynasty, will renounce interests and prospects of which they hold exaggerated anticipations. All other considerations apart, this single one, according to my views, ought to be sufficient to induce the government to maintain our sovereignty.'

The President then called the Minister of Marine; the Commissioners felt anxious to learn from him the means of communication between the possessions at Algiers and the metropolis, that they might be able to form some idea, from his information, of the expenses likely to be incurred by these communications, and in general of those the occupation of the country would cause to the marine department. The minister replied,—

'That whatever system be adopted, it will be absolutely necessary to establish regular and frequent communications between the different stations of the French troops. If the restricted system which has been proposed, be finally adopted, and if we be confined to the occupation of the towns we are already in possession of on the northern coast of Africa, the means of communication ought to be as extensive as the restriction is great; for must we not apprehend that, in the event of that moral disease *nostalgia* gaining ground among such of the troops as may be deprived of news from their native land for some time, we should be compelled to frequent changes in our garrisons, which would necessarily involve immense expense. This remark is particularly applicable to Bona, Oran, and Bougie; Algiers is excepted, for this town in consequence of its abundant means of communication and extensive resources, may be classed by itself. The Minister conceives that Algiers alone will require a frigate and four light vessels, one of them a transport, to carry assistance in case of emergency to any threatened point. At Oran, one stationary vessel, and another to serve as a transport for troops and despatches, besides a third vessel to guard the coasting trade. At Bona, the same as at Oran. At Bougie, one stationary vessel only. The communications with France ought to be established on one point only of the coast of Africa, with which all the lateral stations should communicate; but then each of the above-mentioned places must have the means of communicating directly with France if required. Between Algiers and Toulon, for a garrison of 3,000 men, four steam-vessels ought to ply regularly. Between Bona and Oran, there ought also to be a direct but lateral communication. Steam-vessels will leave Toulon for

Algiers and return once in eight days, in order to establish a regular post once a week. The lateral communication will require two steam-boats for each side, one of which to be at the disposal of the governor for particular service. The lateral communication will then require in the whole eight steam-vessels, but will only be kept up eight months in the year, owing to the boisterous weather off the coast of Africa during the other four. These eighteen vessels, the frigate included, carrying in all 2,000 men, at 1,000 francs per man, every article of equipment included, will cost 2,000,000 francs. The expense of the marine for the service of Africa, every item included, will amount to 2,500,000 francs per annum.

The Committee then resumed the general question on the subject of colonizing.

'Gentlemen,' exclaimed a member, 'Russia has long been seeking to extend her maritime possessions. The Black Sea is already under her dominion, and she will soon carry her power into the Mediterranean. England possesses almost all the principal maritime points in the world. Several of the states of Germany, Austria, in fact all nations in Europe, are anxious to extend their dominions and form new settlements. Will France alone neglect so favourable an opportunity of increasing her power in foreign parts, to form a colony, which ultimately cannot fail to flourish? What extraordinary change has of late taken place in her policy? Only a few years back if France had been told that for a few millions of francs she could obtain possession on the coast of Africa of several maritime and military points, with the faculty of extending her power through the interior of the country,—which, gentlemen, among you, would have advised to refuse such advantages? Who even would have hesitated to vote a sufficient sum to endow the country with the very same establishments which we have now the means of obtaining for nothing? Now, we are in possession of some of the most important parts of Africa, and must endeavour to keep them, not by timid or retrograding measures, but by decidedly progressive means. We must advance and extend our possessions, and then colonize them, in so doing we shall gain ascendancy in the country, and the natives will no longer attribute to motives opprobrious to France, the little care we take of our military occupation. In the present state of things in Africa, and by the plans which were submitted to you in a former sitting, there is in my opinion an absolute impossibility of obtaining any real advantages, and if six millions are thus expended annually it will be six millions thrown away. The financial situation of France is perhaps not altogether favourable to the expenses our colonies are at present in need of, but our African possessions will fully compensate for this by the great advantages which there is no doubt they will ultimately produce. The European powers, by their efforts to extend their maritime possessions, set an example which we cannot do better than follow. A member has expressed his desire that the colonizing should be limited and almost reduced to the occupation of a few military stations, leaving to time

and private speculation to extend the settlements, without the previous assistance of an adequate force. No colony can be established in this manner, and cultivators will never risk their labour beyond the territories protected by the troops.'

Another member was altogether of a different opinion.

'We have already,' he said, 'a sufficient number of maritime stations in the Mediterranean; Toulon, Marseilles, and the different ports in the island of Corsica. Colonies are not indispensable to the prosperity of nations; and in England several statesmen are of opinion that colonies are a burden to the mother country, and if there were a possibility of getting rid of some of them, it would be of the greatest benefit. This member considers definitive occupation prejudicial to the country; and would desire the possession of Algiers only to secure the Mediterranean against the depredations of pirates. He concludes by expressing to the Commissioners his full conviction of the non-utility of the expenses at present incurred by our African possessions.'

'Another Member of the Commission inclines, and for other motives, to the military side of the question. He does not seem to appreciate the importance of the political side of the question so closely connected with the possessions at Algiers; though he is aware that spreading the military force over the country, far from increasing power, on the contrary weakens it; but this is only the case when largely extended. History informs us that it is useful to a large and powerful nation to be well supported abroad. Without going farther than the Mediterranean, which there is every reason to believe will hereafter become the theatre of most important events, do you think that Malta and Corfu are not of the greatest importance to England; or that the English Government are at all disposed just now to relinquish those possessions, although the cost greatly exceeds the profit? Passing events seem to announce a vast ruin at hand, of which the spoils will be eagerly fought for by many contending powers; it may not, perhaps, be impossible for France to obtain on the southern shores of the Mediterranean some particle of the Turkish empire, if it be destined to fall. Spain likewise, in her regeneration and the changes which may accompany it, will perhaps be obliged to make some slight sacrifice to obtain protection and security. Why should not the Balearic Islands be the concession for fresh succours, or the payment of an old standing debt? Well, if we were once in possession of an insular settlement nearer Constantinople, either the Balearic Islands or any other point within the African range, who then would dare contest the equality, perhaps the superiority, of our power in the Mediterranean, even with a force comparatively less? Our ships would find a friendly harbour and well supplied arsenals on almost every point, and within a few hours' sail; with these a check in our naval operations would be very improbable, and at all events of less disastrous nature. I believe that we must not think of keeping Algiers, without carrying our influence

into the interior of that country ; we must remain, Gentlemen, but endeavour to provide some compensation. We can purchase hope, perhaps pay for it in advance on advantageous terms ; but we cannot make sacrifices manifestly useless, the inevitable consequence of an occupation restrained as to territory.'

The foregoing are the most striking passages of the great work published by the Government. From February 1834, the Commission were occupied with very interesting details. It was decided that 3,000 men are necessary for the occupation of Oran ; 300,000 francs are awarded for the works of every description to be executed at Bougie in the course of the year 1834 ; 500,000 francs for those at Bona ; the Commissioners were of opinion, by a majority of sixteen to eleven, that a military force of 12,000 men of all arms would be necessary for the military occupation of Algiers, with the territories as far as Mount Atlas. In their sitting of the 12th of February, the Commissioners heard a very remarkable Report on the civil administration of the Regency. They were of opinion, that public functionaries in Africa ought not to be allowed to purchase landed property on the territory in the French possession. No functionary should, either by himself or through the medium of a third party, have any commercial transactions, under penalty of being superseded. The Commission calls the attention of Government to the manœuvres which might be resorted to, to elude these dispositions. In the sitting of 17th February, the Duke de Cazes transmitted some information relative to the formation of the Direction of Algiers, which the then President of the Council, M. Casimir Périér, had included in his department. M. Casimir Périér, absorbed by the multiplicity of affairs, and by occupations of higher importance, greatly neglected this Direction, despatches were accumulated in his bureau, and remained unanswered. At his death, the direction of the Colony was made over to the Minister of War, who in the absence of the President of the Council had continued to manage the affairs of the Regency ; and they finally remained in his department, either as President of the Council or Minister of War. On the 10th of March 1834, M. Laurence presented a Report on the legislation and administration of justice in the Regency. In the sitting of 26th March, the Commissioners were informed that a national guard actually existed at Algiers consisting of 600 individuals. On one occasion, the entire garrison of Algiers was obliged to quit the boundaries of the city ; the national guard was called out, and 400 answered to the call and occupied all the military posts. Here a member made a very curious observation ; he wanted the national guard to be content with the

title of *Civic Militia*. This suggestion was adopted by the Commissioners; who it appears do not love *National Guards*.

The light in which the occupation of Algiers is viewed in England, would perhaps not be very popular in France. The liberal party considers the occupation, as being from the beginning a Bourbon plot to carry 40,000 of the best troops of France to a distant point, and so far help to lay her at the mercy of the foreigner; and it sees with astonishment, that the extreme liberals of France should be the foremost to throw themselves into such a shallow snare. Many religious and chivalrous recollections were also to make part of the war against the misbeliever, and all hostile to the interests of liberty at home. But the great reason for sending the French army to Algiers, was lest it should be found upon the Niemen. The absolutist party in England see all the difficulty that France is involved in; and have much too little regard for her to disturb her in her position. It is generally understood that the Tory government had assurances, which would be available for pressing the evacuation; but it will be seen they know better than to claim the bond. The first great man that gets to the head of affairs in France, will probably relieve the *nostalgia* of the army of Algiers, by posting it upon the Rhine.

Ann. XV.—*Contre-Enquête. Par l'Homme aux Quarante Ecus.* Contenant un Examen des Arguments et des Principes mis en avant dans l'Enquête Commerciale.—Prix; 50 centimes. Paris, Charpentier, rue de Seine-Saint-Germain, no. 31. 1831.

2. *Counter-Inquiry. By the Man with the Forty Crowns a Year.* Containing an Examination of the Arguments and Principles advanced in the French Commercial Inquiry.—Price 10 sous. Paris, Charpentier, rue de Seine-Saint-Germain, no. 31. 1834.

THIS is an examination of the *Enquête* or Commercial Inquiry carried on and still in progress in France; if the name of Inquiry can be given, to what is in fact only a parading of the parties hostile to the public interest, for the purpose of enabling them to make their own statement of their case. The work was prepared for publication in Paris, as nearly as possible to the time to which the examination is brought down; but was suppressed, as far as a timely appearance was concerned, through the operation of causes which have not been satisfactorily traced. It is given here entire, in the hope that the parties interested in France, will make up for the interference by reprinting or otherwise circulating the contents. The style is familiar and lively; and may consequently be read where graver works would fail. A translation into English is added on the alternate pages.

CONTRE-ENQUÊTE.

PAR

L'HOMME AUX QUARANTE ÉCUS.

1. Les chambres de commerce s'empressent de répondre à l'appel du ministre, elles ont compris tout ce qu'il y avait de décisif dans le contact des faits et des intérêts. — *Moniteur du Commerce*, 15 octobre 1834.

2. En un mot, l'industrie française tout entière s'écue et vient défendre ce qu'elle appelle ses droits. — *Ib.*

1. C'est précisément parce que je doute si dans la somme des intérêts qu'on a prétendu défendre on a compris les miens, que je me permets de présenter à la classe nombreuse dont je fais partie, les observations suivantes.

2. Moi aussi, je suis Français; moi aussi, je suis industriel. Car, mes quarante écus, je ne les trouve pas le matin en balayant la terre, comme les Israélites trouvaient la manne: j'appartiens donc à l'industrie française. Je ne vends pas de vins de Bordeaux, tant pis pour moi; je ne vends pas de charbon, tant pis encore. Mais je gagne ma vie, et je paie ce que je consomme. Je veux savoir si, les intérêts des Bordelais et des charbonniers à part, — ou, si vous le préférez, en les contre-balançant l'un par l'autre, — je veux savoir, dis-je, s'il ne reste pas encore d'autres intérêts dont on ne parle pas, à savoir, le mien et celui de la France. Excusez-moi si je suis un peu vif; je suis bon patriote, et de plus garde national. Je suis prêt à croiser la baïonnette contre quiconque fera tort à la France de la moitié d'un liard, et à présenter les armes à quiconque l'enrichira, l'embellira, la fortifiera de la même fraction. Mais je veux penser, je veux examiner. Je ne veux pas faire de méprise; je ne veux pas frapper mal à propos, ni applaudir l'homme qui, chaque année, ôterait des millions à la France.

Entrons dans les entrailles de la question. Il y a lutte entre les Bordelais et les marchands de charbons; ils soutiennent que ce qui est le gain des uns est la perte des autres; et je veux savoir si la querelle doit s'arranger à mes dépens, si c'est moi qui dois payer les frais du procès. Les Bordelais disent: "On pourrait faire gagner quatre cents millions à la France, en nous permettant d'acheter de l'étranger ce que l'étranger peut nous fournir à meilleur marché." Les charbonniers disent: "Les choses peuvent continuer comme par le passé. Pour cela, il faut faire en notre faveur une souscription de quatre cents millions par an; voilà tout." On me demande mon abonnement aux quatre cents millions; et moi, je veux savoir pourquoi.

Depuis quatre ans, j'ai eu des nouvelles de ce qui s'est passé en Angleterre. Je ne suis pas marchand de gants; mais j'ai un cousin qui l'est; et c'est par lui que j'ai tout su. On a crié là-bas contre les gantiers français. On a dit à John Bull: "Voulez-vous que vos ennemis naturels fassent des gants pour vos femmes? Souffrirez-vous que le gantier

COUNTER-INQUIRY.

BY

THE MAN WITH THE FORTY CROWNS A YEAR.

1. The Chambers of Commerce have lost no time in answering to the call of the Minister; they set all the decisive results that must follow from the bringing together of facts and interests.—*Moniteur du Commerce* (French newspaper), 15 Oct. 1854.

2. In a word, the whole of the industry of France is up in arms, and coming to defend what it maintains to be its rights.—*Ib.*

1. It is precisely because I doubt whether among all these interests anybody has thought of mine, that I take the liberty of making the observations that follow, for the benefit of my numerous fraternity.

2. I too, am a Frenchman. I too, am one of the working classes. For my forty crowns a year, I do not sweep them off the ground in the morning, as the children of Israel did manna, consequently I too am part and parcel of the industry of France. I do not sell Bordeaux wine; so much the worse for me. I do not sell coals; so much the worse still. But I get my bread, and I pay my way. What I want to know is, whether setting on one side the interests of both the Bordeaux people and the coal-owners,—or, if you like it better, setting off the one against the other,—what I want to know, I say, is, whether there is not somebody else's interest of which nobody has said a word, to wit my interest and France's. I must beg pardon if I am a little blunt. I am a good patriot, and a national guard to boot. I am ready to charge bayonets at any man that injures France by the moiety of a farthing, and to present arms to anybody that enriches, beautifies, strengthens her by the self-same fraction. But I mean to think; I mean to look twice. There must be no mistake, I do not want to demolish the wrong man, nor to huzza for somebody who year by year is taking millions from France.

Let us get to the pith of the question. There is high dispute between the Bordeaux people and the coal-owners. They both maintain that what makes the gain of one side, is the loss of the other; and I want to know whether the dispute is to be settled at my expense, and it is I that am to pay the piper for the whole. The Bordeaux people say, 'There might be four hundred millions of francs yearly saved to France, if we were only allowed to buy from foreigners what foreigners will give us cheapest.' The coal owners say, 'Things may go on as they are. It is only to make up for us four hundred millions a-year by subscription; that's all.' So they come to me for my subscription towards the four hundred millions; and what I want to know, is the reason why.

For these four years back, I happen to know what has been going on in England. I am not a glover; but I have a cousin that is; and that is the way I know all about it. There was a cry raised there, against our French glovers. People said to John Bull, 'Will you allow your natural enemies, to fit your wives with gloves? Will you let an English glover be hindered from making you for three shillings, what a foreigner will make you for two? Oh ruin! Oh villainy! Where is the truly British spirit gone to?'

anglais ne fasse pas pour trois francs ce que l'étranger offre de fournir pour deux ? O trahison ! ô injustice ! l'esprit éminemment anglais serait-il mort ?”

Mais on a répondu au gantier anglais : “ Vous offrez pour trois francs ce que le Français donne pour deux. Pensez-vous que les Français se fassent payer leur marchandise, qui ou non ?

— Nous n'en savons rien ; mais nous croyons que oui.

— Et en quoi consiste ce paiement ?

— On peut croire qu'il n'y a pour cela que deux voies ; ils prennent en retour , soit notre numéraire , soit nos marchandises.

— Passons pour le moment sur le numéraire ; nous traiterons ce sujet à part. Si les Français, en retour de leurs gants , reçoivent du commerce anglais une valeur équivalente de deux francs , admettez-vous que , quant à ces deux francs , la chose soit égale au commerce anglais ? Supposons , par exemple , la valeur de ces deux francs payée en laines , pourrez-vous convaincre le marchand de laine , qu'il y a justice impérieuse à soustraire cette valeur de deux francs au commerce des laines , pour la donner au commerce des gants ?

— C'est ce que nous ne voudrions pas soutenir. Mais il y a l'autre franc.

— Répondez-moi : quand un homme a reçu des gants de l'étranger pour deux francs , avez-vous remarqué qu'il jetât le troisième franc à la rivière ? Sinon , que devient donc ce franc ?

— Nous n'en savons rien. Il peut en avoir acheté de la pâtisserie.

— Ainsi vous croyez que s'il avait donné ce troisième franc pour ses gants , il ne l'aurait pas dépensé chez le pâtissier ?

— Monsieur , cela va sans dire.

— Mais , dites-moi ; si l'on faisait une loi pour faire donner ce troisième franc à vous gantier , pensez-vous que le pâtissier ne se plaindrait pas ? Gants contre pâtisserie , il serait possible de se passer de l'un et de l'autre article ; mais chacun de ces deux commerces est un métier licite : sur quoi établirez-vous la différence ?

— Monsieur , considérez nos femmes et nos enfants.

— Est-ce que le pâtissier n'a ni femme ni enfants ?

— Monsieur , nous n'en savons rien ; tout ce que nous savons , c'est que nous tenons de nos aïeux , que ne pas encourager les fabrications de son pays , est le fait d'un mauvais citoyen.

— Je désire savoir si la pâtisserie n'est pas une fabrication du pays.

— Mais pourquoi donner au pâtissier la préférence sur moi ?

— J'y vois une raison des plus fortes. Je porte des gants ; me faire payer deux paires de gants le prix pour lequel l'étranger m'en donnerait trois , c'est évidemment m'en voler une. Or , si on me vole des gants , ne puis-je pas en demander raison à la loi ? Et si le voleur va aux galères , sera-t-il admis à crier : “ Ce n'est que pour des gants.” Est-il écrit dans votre décalogue : “ Tu ne voleras pas , si ce n'est des gants ” ?

But somebody said to the English glover, 'You give us for three shillings, what a Frenchman will give us for two. Do you think, now, the Frenchmen get paid for their goods, or they do not?'

'I know nothing about it; but perhaps they do.'

'And what do you think this payment is made in?'

'I suppose there are only two ways; either in our money, or in goods.'

'Skip the money for the present, and we will go to that again. If the French then, for their gloves, take two shillings-worth of the goods of English tradesmen, do you agree, that as far as these two shillings are concerned, the thing is as broad as it is long to English trade upon the whole? Suppose, for instance, these two shillings-worth are paid in wool;—will you, do you think, persuade the English wool-dealer, that heaven and earth will come together, if this two-shillings-worth is not taken from the wool-trade, to be given to the glove-trade?'

'I do not know that I could. But there is the other shilling.'

'Tell me then; when a man has got gloves from abroad for two shillings instead of three, did you ever catch him throwing the odd shilling into the sea? And if he did not, what *did* he do with it?'

'How should I know. He, may-be, bought tarts and cheesecakes.'

'And you think, that if he had given this third shilling for his gloves, he would may-be not have bought tarts and cheesecakes with it too?'

'I suppose one need not tell that.'

'But tell me then,—if a law was made to oblige this third shilling to be given to you for gloves, do you think the cheesecake-man would have anything to say against the business. Gloves against cheesecakes, it does not seem impossible to do without either one or the other; but as they are both of them honest trades, where do you put the difference?'

'But think, Sir, of our wives and children.'

'My good friend, has the cheesecake-man neither wife nor children?'

'I know nothing about that. All I know is, that we have had it from our fathers before us, that it is a rascally thing not to encourage the produce of our own country.'

'I desire to know, whether the cheesecakes are not the produce of our own country.'

'But why give the cheesecake-man the preference to me?'

'I see the best of reasons. I am a man that wears gloves; and to make me pay for two pairs what the Frenchman would give me three for, is robbing me of one. If somebody steals my gloves, cannot I take him before a justice of the peace? And if the robber is transported, will he call out and say, "It was nothing but gloves?" Have you got in your Ten Commandments, "Thou shalt not steal, anything but gloves?" Why not say the same of the hat upon my head, and the shoes upon my feet? Where do you mean to stop telling me "It is only this, it is only that?" I do not like to be robbed; and I do not mean to help to rob other people.'

'Now that, Sir, is what is called *theory*.'

'My friend, it is what I call *practice*.'

'Sir, it is all a trick of the rich, to cheat the poor.'

Pourquoi ne pas excepter aussi le clipeau qui est sur ma tête, ou les souliers que j'ai aux pieds? Où vous arrêterez-vous, en me disant: "Ce n'est que ceci, ce n'est que cela"? Je n'aime pas à être volé, et je n'aiderai pas à voler les autres.

—Mais, monsieur, c'est là ce qu'on appelle des théories.

—Mon ami, c'est ce que j'appelle, moi, la pratique.

—Monsieur, c'est une invention des riches pour tromper les pauvres.

—Il n'y a point d'invention là-dedans. C'est comme si vous vouliez me persuader que pour couper mon bois, je dois me servir d'une hache obtuse au lieu d'une hache affilée.

—Mais, je ne vous comprend pas.

—Vous, gantier anglais, vous êtes la hache obtuse, car vous m'obligez à dépenser trois francs pour ce que je pourrais avoir pour deux; le marchand de laine anglais, au contraire, c'est la hache affilée, car il fait mon affaire pour deux francs, et avec l'autre franc, il m'envoie chez le pâtissier. Croyez-vous que le pâtissier vous remercie de lui avoir ôté ce franc?

—Peut-être que non.

—Croyez-vous que moi, je vous remercie de m'avoir ôté ma pâtisserie?

—Je ne dis pas, s'il vous faut absolument de la pâtisserie.

—Croyez-vous que tous les deux réunis, nous vous remercierons beaucoup de nous avoir ôté à chacun un franc, pour ne vous en approprier qu'un.

—Mais, monsieur, le pâtissier ne gagne sur ce franc que ses profits.

—Vous n'avez sur le vôtre que vos profits; mais je soupçonne fort que vos ouvriers et vos fournisseurs en ont le reste. Est-ce que, par hasard, l'ouvrier pâtissier vaudrait moins que l'ouvrier gantier?

—Monsieur, vous ne niez pas que je plaide la cause des ouvriers.

—Vous plaidez pour l'ouvrier gantier contre l'ouvrier pâtissier, en demandant une perte pour tous les ouvriers du pays en sus.

—Mais, comment cela?

—Je ne sais si les ouvriers portent des gants; peut-être quelquefois. Je ne sais s'ils mangent de la pâtisserie; cela peut arriver. Mais ce que je sais, c'est qu'il y a beaucoup de choses dont ils font tous usage, et qui pourraient être obtenues à meilleur marché de l'étranger. Que pensez-vous, par exemple, du cognac? N'est-ce pas qu'il vaut bien les produits de notre distillation anglaise? Mon ami, lorsqu'au lieu de te demander un sou pour ton petit verre, on t'en demande six et que tu les donnes, réponds-moi, as-tu perdu cinq sous, ou bien non? Et le charcutier à qui tu aurais acheté pour ta famille de la charcuterie avec ces cinq sous, n'est-il pas vrai que lui, ses ouvriers et fournisseurs, ont perdu cinq sous? Et le marchand de laines qui t'aurait procuré ta goutte de cognac pour un sou, n'est-ce pas que lui et ses employés ont perdu ce sou? Or, cinq et cinq font dix, et un fait onze. Voilà donc une perte totale de onze sous. Et, dans l'autre hypothèse, qui est-ce qui perdra?

'There is no trick in it at all. You might as well go about to tell me that I ought to cut my wood with a blunt hatchet instead of a sharp one.'

'I do not see how that applies.'

'You, the English glover, are the blunt chopper, for you make me spend three shillings for what I could get done for two. The English wool-merchant on the other hand, is the sharp tool, for he does me my business for two shillings, and sends me to buy cheesecakes with the third. Do you think the cheesecake-man thanks you for taking away this shilling?'

'It may be not.'

'Do you think I thank you for taking away my cheesecakes?'

'I cannot say; if you cannot do without cheesecakes.'

'Do you think that both of us put together thank you for taking away from us a shilling's-worth a-piece, to get one of them yourself?'

'But the cheesecake-man, out of the shilling, gets nothing but his profits.'

'You, out of yours, get nothing but your profits. But I guess your journeymen and the trades-people you employ get the rest. Is there any reason why a working cheesecake-maker is not as good as a working glove-maker?'

'I suppose, Sir, you will not go to say, that I am not taking the part of the working-classes.'

'You are taking the part of the working glove-maker against the working cheesecake-maker; and calling for a loss upon all the working-classes in the country besides.'

'How can that be?'

'I do not know whether the working-classes wear gloves; some of them, it may be, do. I do not know whether they eat cheesecakes; sometimes, perhaps, they do. But I know that there are a great many things which they do use, and which they might get much cheaper from abroad. What do you think, for instance, of French brandy? Is not it quite as good as anything the English distillers give you? Now, when instead of being asked a penny for your glass of liquor, you are asked sixpence and you give it—tell me whether you think you have lost fivepence or not. And the sausage-maker, with whom you would have laid out that fivepence for a relish for the children at home, have he, his journeymen and people he deals with, lost fivepence or not? And the wool-merchant, who would have got you your glass of liquor from France for a penny, have he and his connexions lost a penny or not? But five and five are ten, and one is eleven. Here then is elevenpence lost to somebody. And suppose things went on the other way, who would lose then, and how much? The English distiller would lose sixpence, through your not being obliged to drink up his bad liquor. Do you think that English trade would be much damaged by the alteration?'

'But there is a deal of difference between brandy, and my gloves.'

'Why should not any other man say the same, of what he happens to deal in?'

'But there is a thing, Sir, you have forgotten. We shall pay the French glover with our circulating medium. What is to become of us, if we lose our circulating medium?'

'My friend, where do you think our circulating medium comes from?'

ce sera le distillateur anglais qui perdra six sous parce qu'on n'aura pas voulu te forcer à boire sa mauvaise eau-de-vie ; crois-tu que dans ce cas le commerce anglais aurait à se plaindre ?

— Mais, il y a de la différence de l'eau-de-vie à mes gants.

— Pourquoi les autres n'en diraient-ils pas autant pour ce qui les intéresse ?

— Mais, monsieur, il y a une chose que vous oubliez ; il faudra payer le gantier français avec notre numéraire. Que deviendrons-nous si on nous prive de notre numéraire ?

— Mon ami, d'où croyez-vous que nous tirons notre numéraire ? Croyez-vous qu'on le trouve sous les choux comme on trouve les enfants ? L'or et l'argent ne s'achètent-ils pas comme toute autre chose, dans les pays qui les produisent ? Si l'on voulait acheter de l'étranger en lui donnant en retour du café Moka, iriez-vous vous écrier avec horreur, qu'on nous prive de notre café ? Vous diriez, au contraire, que c'est là du commerce ; que si le négociant entend acheter du fer en Suède avec du café, il importera cette quantité de café en sus. Personne ne s'est jamais avisé de dire que pour avoir du café, il fallait empêcher le transit du café en Suède.

— Mais vous concevez que le monnayage doit coûter. Voulez-vous laisser gaspiller cette dépense par le premier venu ?

— Lorsque notre grand fabricant de cirage envoie ses produits à l'étranger, en y mettant son image et son inscription, croyez-vous qu'il le fasse à perte ? le ferait-il s'il devait y perdre ? S'il ne retrouvait plus cette dépense sur le prix, ne préférerait-il pas exporter des matières de la même espèce dans leur état brut ? Mais un gouvernement qui donnerait l'argent monnayé, sans se faire rembourser les frais de division et d'empreinte, ferait une folie, et on n'est pas obligé de tenir compte des folies.

— Vous parlez à merveille, monsieur ; mais je n'en demanderai pas moins au parlement de prohiber les gants français.

— Demandez, mon ami, demandez ; mais pendant ce temps-là le bon sens va son train."

C'est ainsi que les choses se sont passées en Angleterre ; mais revenons à notre Enquête.

3. Le système protecteur a pour but d'assurer le marché du pays à l'industrie du pays, il favorise ainsi l'extension du travail national, moyen puissant de richesse et de repos. — *Chambre de Commerce de Lille. Moniteur du Commerce, 15 oct. 1834.*

3. Le système prétendu protecteur ne favorise l'industrie qu'en mettant dans une poche ce qu'il prend dans une autre ; et il ôte en sus à tout homme, en sa qualité de consommateur, à l'industriel comme au non-industriel, à l'ouvrier comme au grand seigneur, une valeur égale à la différence du prix naturel des matières qu'il consomme à leur prix artificiel. Il peut bien se faire que tel ou tel individu trouve son compte à cet état de choses, comme le voleur de grand chemin à l'industrie du vol ; il vole plus qu'il n'est

Do you think it is found in a parsley-bed, as little boys are? Are not gold and silver bought like other things, in the countries where they grow? If somebody wanted to buy things abroad and pay for them in Mocha coffee, would you run about crying, that they were carrying away our Mocha coffee? You would say, on the contrary, that it was only trade, that if the merchant intends to buy, for instance, iron in Sweden and pay in coffee, he will cause to be imported this quantity of coffee over and above. Nobody ever took into their heads, that for us to have coffee at home, we must stop the transit-trade in coffee with Sweden.'

'But it is plain the minting of this money must cost a great deal. Do you mean that all this is to be thrown away by anybody that likes.'

'When the great English Blacking-man sends his drugs abroad, and puts his image and superscription on the same, do you think he would do so if it was to cause him a loss? If he did not in some shape or other recover it in the price, do not you think he would send his blacking abroad in bulk instead of stamping it in cakes? But if the government gives its coined money without being paid for the expense of coining and stamping, it acts like a simpleton, and there is no keeping account of all that may be done by simpletons.'

'You talk fair, Sir; but for all that, I will go to parliament and ask to have French gloves prohibited.'

'Ask, my good fellow, ask; but while you are asking, common-sense is going its gait.'

This was the way things went on in England. But now again for the Inquiry.

3. The object of the protective system is to secure the market of the country to the industry of the country; it consequently favours the extension of the national production, which is a powerful means of riches and tranquillity — *Chambre de Commerce of Lille. Moniteur du Commerce, 15 oct. 1834.*

3. The protective system so-called, favours industry only by putting into one pocket what it takes out of another; and it takes from every man besides in his character of consumer,—from the working-man and from the man that never works, from the day-labourer and from the peer of the realm,—the work of the difference between what he pays for the things he consumes, and what he might have got them for. It may happen that a man here and there may find his interest in this state of things, just as a highwayman finds his interest in the trade and calling of a thief,—he robs more than he is robbed. But all that he gains, is taken from somebody else. It is I the man with forty crowns a year, who neither sell coals, nor iron, nor cotton nor woollen goods;—I who am a tailor, grocer, carpenter, clerk, printer, artist, doctor, writer, lawyer, householder,—I who am father to four-fifths of the children that are to be seen in the streets;—it is I that am to pay for all this, without anybody so much as saying Thank'ye. *Do you really take this for a powerful means of riches and tranquillity?*

4. This system extends itself to all kinds of industry made or to be made, provided only that by time and perseverance they are capable of being brought to perfection and use at all, and that there are no invincible obstacles found in the soil or climate.—*Id.*

4 That is to say, it promises to all kinds of industry made or to be made that cannot be carried on but at a loss, to keep them at the expense of the kinds of industry that could support themselves, throwing the difference on the unfortunate consumer besides.

volé ; mais tout ce qu'il gagne est pris à quelque autre. Moi, homme aux quarante écus, qui ne vends ni charbons, ni fers, ni tissus de coton ou de laine ; moi, qui suis tailleur, épiciier, menuisier, notaire, imprimeur, artiste, médecin, homme de lettres, avocat, propriétaire ; moi qui suis père des quatre cinquièmes des enfants qu'on voit dans nos villes, c'est moi qui dois payer tout cela, sans qu'on daigne même me dire *merci*. Croyez-vous que ce soit là un moyen puissant de richesse et de repos ?

4. Ce système s'étend à toute industrie créée ou à naître, pourvu que le temps et la persévérance puissent l'amener à perfection et utilité, et qu'elle ne rencontre pas d'obstacles invincibles dans le sol ou le climat.—*Ib.*

5. Pour soutenir les industries créées, le système protecteur a recours aux prohibitions et aux droits.

Aux prohibitions, quand le droit est impuissant, c'est-à-dire, quand ce droit, établi de manière à protéger efficacement l'industrie, est assez élevé pour que la fraude puisse et doive se faire à un taux inférieur.

Aux droits, quand son chiffre protège efficacement l'industrie nationale, et que ce chiffre ne laisse plus ou presque plus d'accès à la fraude.

Pour les industries à naître, plus de prohibitions, mais un droit calculé de manière à laisser peu d'encouragement à la fraude.—*Ib.*

Le système protecteur conduit au bas prix par la libre concurrence intérieure, il garantit le consommateur de toute exigence outrée, il amène enfin nos produits à paraître sans désavantage sur les marchés étrangers.—*Ib.*

gers, quand il empêche le producteur de recevoir en paiement de ses produits, les objets dont l'importation lui serait profitable ?

7. Il offre à toutes les parties du royaume, emploi des bras et des capitaux, en créant le travail, il crée des consommateurs et établit ainsi, avec la liberté de faire, une égalité d'aisance bien

4. C'est-à-dire qu'il promet à toute industrie créée ou à naître qui ne peut se maintenir qu'à perte, de la faire soutenir aux dépens des industries qui peuvent prospérer, en rejetant toujours la différence sur le pauvre consommateur.

5. La fraude, dont parlent ces messieurs, c'est ce qui évite une perte à la France. Maintenir cette perte, en se procurant un bénéfice à eux-mêmes, c'est, avant tout, ce qui les occupe. Quand ils pourront arriver à ce but par les droits, ils se contenteront des droits ; quand ils ne le pourront pas, ils demanderont la prohibition... Extrême bonté ! civisme pur !

6. Comment conduirait-il au bas prix, quand il a visiblement pour effet de le hausser ? Comment, par la concurrence intérieure, quand on dit à l'industrie qui pourrait se soutenir sans que la nation en fit le frais : On t'otera à toi, pour donner à une autre ? Comment garantirait-il le consommateur, quand il a pour objet de lui faire payer deux sous au lieu d'un ? Comment amènerait-il enfin nos produits à paraître sans désavantage sur les marchés étrangers, quand il empêche le producteur de recevoir en paiement de ses produits, les objets dont l'importation lui serait profitable ?

7. A une partie du royaume, il ôte l'emploi des bras et des capitaux qui auraient été appliqués à la production des objets donnés en échange des produits étrangers ; et à une autre, l'emploi des bras et des capitaux qui auraient été mis en action pour fournir aux demandes du

5. To support the kinds of industry already existing, the protective system has recourse to *prohibitions*, and to *duties*.

To *prohibitions*, when duties are of no effect; that is to say, when the duty that would be necessary to form an effectual protection, is so high as to enable the fraudulent dealer to undersell.

To *duties*, when the rate of duty will be a sufficient protection to the national industry, and leave no, or almost no, room for the fraudulent dealer.

For the kinds of industry that are yet to be brought into the world, no more prohibitions, but a duty calculated to leave little encouragement to fraud. *

6. The protective system leads to low prices by the free commerce it establishes in the interior of the country; it secures the consumer against any extravagant demands; and finally it enables our productions to appear without disadvantage in foreign markets.—*Ib.*

pear without disadvantage in foreign markets, when it will not let the producer be paid in the kind of goods whose importation would be profitable?

7. It offers to all parts of the kingdom, employ of hands and capital; by creating labour, it creates consumers, and so establishes, along with the liberty to work, an equality of comfort much greater than would be the consequence of a system which confined its advantages to a few districts privileged by their position and soil rather than by any superior energy and intelligence in their inhabitants.—*Ib.*

of some other to the same amount; to which must be added the robbery of the consumer throughout France besides. If it builds country seats in the North of France, it takes the payment for them out of the South, and I, the man with forty crowns a-year, must lose the difference of price; and as I happen to be everywhere, I call that equality of *discomfort*. If a particular man has a field 'privileged by its position and soil,' I had a notion that he had a right to be the better for it; and if some other has one quite differently circumstanced, I cannot see that the first man is bound to make up to him the difference. From the beginning of the world, there have been good fields and bad; but nobody ever thought of making a level of this kind before.

8. It is *progressive*; because as soon as the old established trade has grown enough, it makes it move down from prohibition to duty, and the newly

5. The *fraud* these gentlemen speak of, means preventing a loss to France. To keep up this loss, and make a gain out of it for themselves, is what above all things runs in their heads. When they can get at this point by duties, they will be content with duties; when they cannot, they will have prohibition. How extremely kind! What disinterested citizenship!

6. How is it to lead to low prices, when its end is visibly to raise prices? How is it to do it by free concurrence in the interior, when it says to the kind of industry that can support itself without the nation paying the expense, 'There shall be taken from you, to give to another?' How is it to secure the consumer, when its object is to make him pay two pence in place of one? And how is it to enable our productions to ap-

7. From one part of the kingdom it takes away the employ of the hands and capital which would have been applied to the production of the goods given in exchange for the foreign produce; and from another, the employ of the hands and capital which would have been set in motion to supply the demands of the consumer that is robbed; and it robs the consumer besides. It creates labour in no place but by destroying it somewhere else, and therefore it does not create consumers any more. Instead of establishing liberty to work, it does something much more like establishing liberty to go without. It adds to the comfort of one individual only by taking from the comfort

8. Is your trade of a sort that can add to the riches, the greatness, the glory of France?—you have grown enough, you must make room for the sorts that can do nothing of the kind. Is your

plus grande que celle résultant d'un système qui n'appellerait à partager ses avantages que quelques contrées privilégiées par leur position et le sol, plus encore que par l'industrie et l'intelligence de leurs habitants.—*Ib.*

dans le nord, c'est dans le midi qu'il en prend les frais, et moi, homme aux quarante écus, je perds la différence des prix; et comme moi je suis partout, j'appelle cela une égalité de gêne. Si tel homme a un champ privilégié "par sa position et le sol," je suis d'opinion qu'il doit en profiter; si tel autre en a un placé dans des conditions toutes contraires, je ne vois pas que le premier soit absolument tenu de lui tenir compte de la différence. Depuis la création du monde, il y a eu de bonnes et de mauvaises terres; mais on ne s'est jamais avisé d'établir un niveau de ce genre.

8. Il est progressif, puisqu'alors que l'industrie ancienne a suffisamment grandi, il la fait passer de la prohibition au droit, et l'industrie nouvelle, à mesure qu'elle se développe, d'un droit clove à un droit moulinier.—*Ib.*

9. Dans le système protecteur, c'est pour l'industrie que les droits sont établis, ce sont donc ses besoins, et non ceux du trésor, que l'on consulte pour la fixation des tarifs.—*Ib.*

vers la saturation du marché dans les objets de première demande, vous verrez paraître successivement les autres en scène. Vous répondrez que cela ne fait pas votre compte, à vous, découpeurs de bottes. On le comprend; mais cela fait merveilleusement le compte de la France.

10. Après avoir ainsi énoncé le système qu'elle entend adopter, la chambre de commerce, dans un mémoire développe, et en se renfermant dans le cercle des faits, établit.

1^o. Que le droit ne saurait toujours remplacer la prohibition.—*Ib.*

consommateur spolié; et en sus, il vole le consommateur. Il ne crée le travail dans un lieu qu'en le détruisant dans un autre; il ne crée donc pas non plus des consommateurs. Il n'établit pas la liberté de faire, mais bien plutôt l'obligation de ne pas faire. Il n'ajoute à l'aisance d'un individu qu'en ôtant de l'aisance d'un autre dans une égale proportion; à quoi il faut ajouter la spoliation du consommateur par toute la France. S'il élève des châteaux

8. Votre industrie est-elle de nature à pouvoir ajouter à la richesse, à la grandeur, à la gloire de la France? Vous avez suffisamment grandi; faites place aux industries qui ne procurent rien de tout cela. Vous avez une industrie qui consiste à tailler une paire de souliers sur une paire de bottes? Comptez que vous serez soutenu, et les porteurs de souliers par toute la France paieront la différence.

9. Ce n'est pas pour l'industrie, mais pour la non-industrie; c'est pour l'industrie qui consiste à faire une paire de souliers d'une paire de bottes. Vous promettez d'arriver un jour à rendre la chose profitable. Pourquoi ne pas commencer par encourager le développement des industries qui ont de la force et de la vie par elles-mêmes; puis, à mesure qu'on avancera

10. Droit ou prohibition, qu'importe? C'est comme s'il s'agissait de savoir si un homme sera pendu pendant une heure, ou à perpétuité. Ce qu'il y a de plus clair, c'est qu'on veut le faire pendre jusqu'à ce que mort s'en suive. Ce point accordé, on sera coulant sur le reste.

established trade, in proportion as it gains strength, from a high duty to a lower.—*Ib.*

9. In the protective system, it is for the benefit of trade that the duties are established; it is the interest of trade therefore, and not of the revenue, that is to be consulted in fixing the duties.—*Ib.*

and then, as progress was made towards the saturation of the market with the things in first demand, you would see the others appear one after another upon the stage. You will reply, that that would do no good to you, the cutters down of boots. People believe you; but you are going a strange way to advance the good of France.

10. After thus announcing the system it would think of following, the Chamber of Commerce in an extended manner, and keeping always within the boundary of facts, lays down:—

1° That a duty cannot always supply the place of prohibition.

11. 2° That taking off the prohibitions in France would be only trickery, if there was not reciprocity on the part of foreigners.—*Ib.*

operation of the same nature, though bearing on different kinds of goods. And it is certain besides, that this foreign reform, if finally brought about, will be of signal advantage to the commerce and riches of France. Ought France to accept the first of these advantages, without the other? I should say, Yes. On whose account do you advise its being refused? Is it on mine? I protest against the refusal altogether; because I had much rather have one benefit than none at all. Is it on the account of France in the aggregate? I protest against it on the same principle. Is it that the reciprocity we are to stop for, will have any tendency to soften the loss that is to fall upon the misplaced trades you carry on. Not a bit; on the contrary it is to somebody quite different from you, that the benefit of it will go. In all this therefore I can see nothing, but the hypocritical interest which you, the cutter down of boots, may have in putting forward the absence of reciprocity as a reason for not getting rid of you.—So much for the fallacy of Reciprocity.—I can very well imagine a statesman making use of the argument of reciprocity, to try to procure his country a double benefit at once, by offering the foreigner the same. I can imagine a government of opinion, finding itself obliged to support itself upon the private interests of those who are to gain by the intended reciprocity, to be able to meet the opposition of those who are to lose by the destruction of the old monopoly; which I see may make a reason why two sensible governments should lend a hand to one another, by each strengthening the other by simultaneous concessions. And I can imagine too, a government that

trade one that makes a pair of shoes by cutting the tops off a pair of boots?—you may reckon upon being supported, and the wearers of shoes throughout France shall pay the difference.

9. It is not for the benefit of trade, but the benefit of no-trade; it is for the benefit of such trades as consist in cutting a pair of shoes out of a pair of boots. You say that some time or other you will be able to make the trade a good one. Why not begin by encouraging the progress of such trades as are able to stand by themselves;

10. Duty or prohibition, what difference is it to make? It is like debating whether a man shall be hanged for an hour, or to all eternity. What is clear is, that it is intended to hang him till the life is out. This point secured, they do not mean to quarrel about the rest.

11. I, a Frenchman, beg my government not to allow of an operation that is to inflict an aggregate loss upon France, and an individual one upon myself. A foreigner, on his side, is begging his government not to aggrrieve him with an

11.^{2o} Que la levée des prohibitions en France serait duperie, s'il n'y avait réciprocité de la part de l'étranger.—*Ib.*

11. Moi, Français, je supplie mon gouvernement de ne pas permettre une opération qui infligera une perte collective à la France, et à moi un dommage individuel. L'étranger, de son côté, supplie son gouvernement de ne pas le grever d'une opération de la même nature, mais qui porte sur des matières différentes. Il est certain en outre que cette réforme étrangère, si elle finit par s'établir, procurera un avantage signalé au commerce et à la richesse de la France. La France doit-elle accepter le premier de ces bénéfices sans l'autre ? Je pense que oui. Dans l'intérêt de qui conseillez-vous de le rejeter ? Est-ce dans le mien ? Je le nie, parce que je préfère obtenir un bénéfice à n'en point obtenir du tout. Est-ce dans l'intérêt de la France collectivement ? Je le nie par le même principe. Est-ce que la réciprocité en question remédiera à la perte qui doit retomber sur votre industrie mal assise ? Il n'en sera rien, croyez-moi. Au contraire, c'est à tout autre qu'à vous que ce bénéfice doit arriver. Je ne vois donc, dans tout cela, que l'intérêt hypocrite que vous, découpeur de bottes, vous pouvez avoir à mettre en avant le défaut de réciprocité comme raison pour qu'on ne se débarrasse pas de vous : voilà en quoi consiste le sophisme de la réciprocité. Je conçois qu'un homme d'État puisse se servir de l'argument de la réciprocité pour tâcher d'obtenir à son pays un bénéfice double en même temps qu'il l'offre à l'étranger. Je conçois qu'un gouvernement basé sur l'opinion puisse se trouver dans la nécessité de s'appuyer sur les intérêts particuliers de ceux qui vont gagner par la réciprocité nouvelle, pour résister à l'opposition de ceux qui vont perdre par la destruction de l'ancien monopole ; et je comprends que ce soit là une raison pour que les gouvernements sages se tendent mutuellement la main, en s'appuyant sur des concessions simultanées. Je conçois aussi un gouvernement qui dirait : " Nous ne voulons plus être assez insensés pour refuser les avantages que nous pouvons tenir de vous ; vous ferez de même de votre côté quand cela vous plaira ; " et ce gouvernement-là emporterait la palme de l'intelligence et des lumières, en donnant un exemple qu'il seroit impossible qu'on n'imitât pas un jour, quoique le moment ne soit peut-être pas encore venu. C'est parce que telle est ma conviction, que je vous demanderai, puisque vous paraîsez vouloir en venir aux paroles dures, de quel côté serait la duperie, et qui vous prétendez duper ?

12. 3^o Qu'admettre, moyennant un droit, les tissus étrangers, ce serait amener perturbation et catastrophe.—*Ib.*

12. Perturbation sans doute chez qui fait métier de confectionner des souliers avec des bottes ; catastrophe assurément à qui mange au râtelier de la France, et veut continuer à le faire. Oui, messieurs, je le soutiens, vous mangez au râtelier de la France et au mien.

Au lieu d'ajouter à la richesse et à la puissance de la patrie, vous vivez à nos dépens, comme une armée de barbares en pays ennemi.

Il y a une industrie qui enrichit la France, parce qu'elle lui donne ce qu'elle ne pourrait avoir autrement. Il y a aussi une industrie qui nuit à la France, parce qu'elle lui ôte ce qu'elle pourrait garder ; et, cette dernière industrie, c'est la vôtre. Après tout, vous êtes des

should say, 'We do not intend to be such fools as to refuse the advantage we may have from *you* by taking your cheap goods; *you* may do the like on your side when you think proper;' and such a government would carry off the prize of intelligence and sense, and give an example which it is impossible others should not imitate at last, though perhaps the day may not be actually come. It is upon all these grounds I mean to ask you, since you seem disposed to come to hard words, *whose side the trickery is on*, and who it is you expect to make a fool of.

12. 3. That to admit foreign wove goods under a duty, would be to bring on disturbance and panic.—*Ib.*

Yes, gentlemen, I stand to it; you live on the blood of France and on mine. Instead of adding to the riches and power of the country, you live at our expense, like an army of Cossacks in an enemy's territory.

There is a sort of trade that enriches France, because it gives her what she could not have without. There is another sort that injures France, because it takes away what she might have kept, and this last sort of trade, is yours. But after all, you are citizens; though desperately destructive ones. We have a great respect for you; though you live upon our marrow. You shall be treated with all sorts of moderation; though perhaps you will be so civil as not to live upon us longer than you can help. You shall be well-used; you shall have time given you; and we have hopes of showing you, that neither your situation nor ours is as desperate as might be thought. In the gain of France in the aggregate, there may be ways found to extend a portion upon you, or at all events reduce what you are to give up, to the least possible amount. But you will not go on, living at the expense of France.

13. *Monsieur le ministre*,
Your circular of the 20th of September, published in all the papers, has carried alarm into our workshops.

The prohibitions to which our manufacturing industry owes its origin, you are wanting to remove. You want to let in strangers to divide with us the market of our own country.

But this market, is it not abundantly and duly supplied by French industry?—*Address of the manufacturers, spinners, and traders of the town of Roubaix, to the Minister of Commerce*

14. Does not the cheapness of our wove goods show, that there is competition enough to satisfy the consumer?—*Ib.*

The consumer is quite ready to sacrifice his own interest, if it can be proved to him that France in the aggregate, him-self inclusive, is to gain by it. But he maintains that there is to be a loss.

15. In calling in the stranger to share in supplying our consumption, do you wish to force us to lower still further the already diminished wages? And to support our workmen that the use of foreign goods will leave without employment, are we to introduce a Poor-Rate?—*Ib.*

13. Nothing is abundantly and duly supplied, when it might be had cheaper. Fancy a keeper of a cook's shop in the Rue St. Honoré, attempting to sell at a higher price than the cooks on the other side the way, and asking if his eatables were not abundantly and duly supplied.

14. Nothing will satisfy the consumer, but the conviction that he gets the goods the cheapest possible. Ask in the Rue St Honoré whether this is true or not.

15. The question is, whether we shall lower the wages of the workmen whose employment is hostile to the riches and power of France, to augment by an equal amount the wages of the workmen whose labour is useful to her, with a relief to all the consumers besides, among whom are the working-classes themselves. Take for example wove goods. All that can be taken off from the wages of any weavers by the introduc-

citoyens, quoique des citoyens très-nuisibles. On vous respecte beaucoup, quoique vous viviez de nos sueurs. On aura toute sorte de ménagements pour vous; cependant vous aurez la complaisance de ne pas vivre à nos dépens plus long-temps qu'il n'est nécessaire. Vous serez bien traités; on vous accordera des délais, et nous espérons vous prouver que votre situation et la nôtre ne sont pas aussi désespérées qu'on pourrait le croire. On trouvera dans le gain de la France collective de quoi en étendre une partie sur vous, ou tout au moins réduire vos sacrifices à la moindre somme possible. Mais vous ne continuerez pas à vivre aux dépens de la France.

12. Monsieur le ministre,

Votre circulaire du 20 septembre, publiée par tous les journaux, a jeté l'inquiétude dans nos ateliers.

Les prohibitions qui ont donné naissance à notre industrie manufacturière, vous voulez qu'elles soient levées; vous voulez que les étrangers entrent en partage de notre marché national.

Mais ce marché n'est-il pas abondamment et convenablement fourni par l'industrie française? — *Les fabricants filateurs et commerçants de la ville de Roubaix à M. le ministre du commerce* — 16.

14. Le bon marché de nos tissus n'atteste-t-il pas assez une concurrence qui doit rassurer le consommateur? — 16

lui compris, y gagnera.

15. En appelant l'étranger à partager notre consommation, voulez-vous nous forcer à abaisser encore des salaires déjà réduits? Et pour sustenter ceux de nos ouvriers que l'emploi des marchandises étrangères aura laissés sans travail, créons-nous une taxe des pauvres? — 16.

dans d'autres commerces, ce qui fait balance; et n'y aura-t-il pas gain en sus pour tout ouvrier consommateur, comme pour tout Français, par la diminution du prix des tissus?

Où, si on le préfère, prenez le cas inverse. Imaginez qu'un tisserand

13. Rien n'est abondamment et convenablement fourni, quand on peut avoir la chose à meilleur marché. Imaginez un traiteur de la rue Saint-Honoré qui prétendrait vendre à des prix plus élevés que les traiteurs de l'autre côté de la même rue, et qui demanderait ensuite, si ses mets ne sont pas abondamment et convenablement fournis.

14. Rien ne rassurera le consommateur, si ce n'est la conviction qu'il reçoit les objets au meilleur marché possible. Demandez dans la rue Saint-Honoré si cela est vrai ou non.

Le consommateur est tout prêt à sacrifier son intérêt, si l'on peut lui prouver que la France, Mais il soutient qu'il y a une perte.

15. La question est d'abaisser les salaires des ouvriers dont l'emploi est opposé à la richesse et à la puissance de la France, pour augmenter d'une masse égale les salaires des ouvriers dont le travail lui est utile, avec soulagement en sus pour les consommateurs, parmi lesquels se trouvent les classes ouvrières elles-mêmes.

Prenons pour exemple les tissus. Tout ce qui sera diminué des salaires des tisserands par l'introduction des tissus étrangers, ne sera-t-il pas ajouté aux salaires des ouvriers engagés

tion of the foreign article, must not it be laid on to the wages of the workmen engaged in some other branch of trade, which balances exactly; and will there not over and above this be a gain for every workman that is a consumer of wove goods, as for every other man in France, by the reduction in the price of wove goods?

Or, if it is preferred, take the opposite case. Fancy a weaver saying, 'Increase my wages by paying double for wove goods and taking off the same amount from the wages of French labourers of some other kind; and then you and France shall have the benefit of paying two francs for a piece of wove goods instead of one.' In fact this is what has been written to the Minister.

16. Our establishments, the fruit of such long labour, do you mean to condemn them to a stand-still? *Ne shall not attempt to enter into a contest that is ruinous and impossible.* —*Ib.*

16. Fancy the wig-makers had said, 'Our establishments, the fruit of such long labour, do you mean to condemn them to a stand-still? *We shall not attempt to enter into a contest that is ruinous and impossible.*' Would not they have been answered, 'Gentlemen, nobody wants your wigs; they are not asked for, and there will be strong objections to making a law to make every man wear a wig, or pay for one whether he wears it or no.' There will be no fear felt that this will impoverish France; because everybody knows that what he saves in wigs, the citizen will expend upon some other kind of trade. There is no doubt of the unhappy situation of the journeymen wig-makers; and it will be held a good reason why too much should not be done to hurry the vanishing of wigs, but not why they should be worn for ever. Though wigs are not wove goods, the case applies exactly to the portion of the price which is to be saved to the consumer; and for the rest, there will be an exact balance made by the new demand created for the goods to be exported.

17. The bread the national manufactures give the French workmen, is it into the hands of the English workmen we are to see it go? —*Ib.*

17. The bread is to go from the French workman who cannot manufacture unless France will stand the loss, into the hands of the French workman who can manufacture and add to the riches and power of his country. Because the English workman may gain too, is no reason why France is to court a loss.

18. Such however was the melancholy result of the Treaty of Commerce made with England in 1786. At that time, as now, we were promised the prosperity of everybody from the prosperity of the whole. And what came of it? We were two years without having any work at all; two years without selling any of our goods.

Is it like lot that is to be prepared for us now? —*Ib.*

18. On the contrary, the truth and fact was, that between the years 1786 and 1792, even in the kinds of goods in which the competition of England was most feared, namely cotton and linen goods, hard-ware, gauzes, millinery, there was an increase of exportation to England of more than a million and a half of francs in total amount, and this in the face of duties against them in England, averaging more than eleven per cent on the value. The total amount is not a great deal; but it is directly in the teeth of the allegations proceeding from Roubaix. And besides this, between the years 1785 and 1789, the exportation to England of those most important articles brandy and wine, had been, the first doubled, and the other augmented by a third.

dise : " Augmentez mon salaire en doublant le prix des tissus et en diminuant d'autant les salaires de divers autres ouvriers français ; puis vous, et la France entière, vous aurez l'avantage de payer un tissu deux francs au lieu d'un." Effectivement, c'est ce que l'on a écrit au ministre.

16. Nos établissements, fruit d'un si long labeur, les condamnerez-vous au repos ? Nous ne voudrions pas essayer une lutte vaine et impossible. —*Ib.*

16. Imaginez que les perruquiers disent : " Nos établissements, fruit d'un si long labeur, les condamnerez-vous au repos ? Nous ne voudrions pas essayer une lutte vaine et impossible." N'est-ce pas qu'on leur répondrait : Messieurs, on ne veut pas de vos perruques ; on ne vous en demande pas ; on s'opposera à la confection d'une loi tendant à ce que tout individu porte perruque, ou en achète une sans la porter. On ne craindra pas par là d'appauvrir la France, parce qu'on sait bien que ce qui sera épargné en perruques, le citoyen le dépensera dans quelque autre genre d'industrie. On reconnaît la position malheureuse des ouvriers perruquiers, et on voit là une bonne raison pour ne pas trop hâter la disparition des perruques, mais non pas pour qu'on en porte à perpétuité. Quoique les perruques et les tissus ne soient pas identiques, l'application est exacte en ce qui concerne cette portion du prix qui sera épargnée au consommateur ; et pour le restant, il y a balance avec la demande créée pour les objets qui seront exportés.

17. Le pain que les manufactures nationales envoient aux ouvriers français est ce dans la main des ouvriers anglais, que nous le venons acheter ? —*Ib.*

17. Le pain doit passer des ouvriers français qui ne peuvent pas fabriquer si ce n'est aux dépens de la France, dans la main des ouvriers français qui peuvent fabriquer en ajoutant à la richesse et à la puissance de la France. Parce que les ouvriers anglais y gagneront aussi, ce n'est pas une raison pour que la France accepte une perte.

18. Tel fut pourtant le triste résultat du traité de commerce de 1763, alors aussi la prospérité de chacun par la prospérité générale nous fut promise. Qu'est-il arrivé ? Nous avons été deux ans sans travailler deux ans sans vendre nos produits.

Est-ce un sort semblable qui doit nous être réservé ? —*Ib.*

18. Au contraire, de 1786 à 1792, même dans les objets les plus jalouse, c'est-à-dire les tissus de coton et de laine, la quincaillerie, les gazes, les articles de modes, il y eut augmentation de plus d'un million et demi de francs en valeur totale, et cela en face d'un impôt perçu en Angleterre, de plus de onze pour cent. Le montant n'est pas grand ; mais il est diamétralement opposé aux allégations de Roubaix. De plus, de 1785 à 1789, l'exportation si importante des eaux-de-vie en Angleterre a été doublée, et celle des vins a augmenté d'un tiers.

19. Pour filer la laine, pour filer le lin, pour retordre le coton, nos voisins ont de machines que nous n'avons pas. Se

19. Si nos voisins ont de bonnes machines, c'est une raison pour que nous cherchions à nous en servir. On dit à tout Français : " Vous pourriez vous procurer ce qu'il vous faut, à

19. For spinning wool, for spinning thread, for twisting cotton, our English neighbours have machinery which we have not. Do we find them allowing themselves to be blinded by a deceptive system? Quite the contrary. What severity do they not employ to keep their machinery from being exported? With what jealousy do they watch over the execution of the prohibitory law. And yet it is the goods they make with these improved machines, and against which you know we have no chance of struggling, that you want to offer to our consumers. — *Ib.*

20. We will have a duty for protection, you will say to us. But has a duty protected the spinners of cotton for *tulle*? Their factories that were so active and were increasing every year, what is become of them now? You would find them all at a stand-still, English cottons are everywhere, and the lowness of the price leaves no chance for the French manufacture.

You will tell us the effect we point to is not the consequence of the Ordinance. What then is the reason of it? And if this first move has not yet had its effects, why cannot you wait till it has? Why be in such a hurry to make other and more disastrous experiments? — *Ib.*

21. *Monsieur le ministre*, there is no disputing, that it is your business to manage our affairs, and ours to find resignation. You asked for facts, we have given you both old and new. Allow us to add one more observation to conclude.

If Napoleon was loved by the people whom he thinned by war, it was because he secured them comfort by giving them work. If the Ordinance in July met with such prompt resistance, it was because they threw out of work the printers journeymen. After so many political convulsions, the people wants work, and the country rest. To the King, whom we love, we pay taxes tolerably heavy without complaint. We do not refuse our children for the service of the country. But our means of working, we beg you to respect. Let our population, so numerous, so quiet, so well disposed, but frightened to this hour by the recollection of the Treaty of 1786 and the condition of our fine cotton manufactories, have nothing to induce it to disaffection, nor to encourage the idea that the foreigner is going to carry off the comfort and well being it has enjoyed for two years back. Above all, *m. monsieur le ministre*, recollect that the lowering of a rate of wages has twice set Lyons in rebellion.

We have the honour to be, &c.

Roubaux, 5 Oct. 1834.

(Here follow 272 signatures.) — *Ib.*

19. If our neighbours have good machinery, it is the very reason why we ought to take the benefit of them. What you say to every Frenchman is, 'You might get what you want, for half price on the other side the water; therefore take care you do no such thing.' As for the prohibition of exporting machinery, it is completely settled by the majority of public opinion among our neighbours, that all prohibition, even on the sore and difficult subject of the exportation of machinery, is silliness; but all prejudices cannot be got over in a day. Their liberals in commercial affairs, are moving forwards continually, and at the same time asking us to help them.

20. Of course, it is the smuggler that has been at the bottom of this. That is to say, the smuggler has given the consumers, or in other words, France, good cotton thread and cheap, increasing at the same time the wages of the workmen who can be of use to France, and this at the expense of certain others who cannot. Great cause of complaint against the smuggler!

21. A threat! which it is for France to answer. Deprive your workmen in some other branch, of their wages to give them to us, with an aggregate loss to France besides; or else, *disaffection*. Rob the workman who can be of use to France, for the benefit of us who cannot; or else, *rebellion* as at Lyons. What people wait to know, is whether France will put up with this or not.

laissent-ils aussi aveugler par un décevant système ? Loindela. Leurs machines, avec quelle sévérité ne les prohibent-ils pas à la sortie ? Avec quel soin ne surveillent-ils pas l'exécution de la loi prohibitive ? Et cependant ce sont les produits qu'ils obtiennent de ces métiers perfectionnés, et contre lesquels vous savez bien que nous ne pouvons lutter, que vous voulez offrir à nos consommateurs.—*Ib*

20. Un droit nous protégera, nous dites-vous ! Mais a-t-il protégé les filateurs de coton pour telle ? Leurs ateliers si actifs que chaque année devait accroître, que sont-ils devenus ? Vous les verriez tous au repos. Le coton anglais abonde, et son prix avili ne laisse plus de chance à la fabrication française.

Le résultat que nous signalons n'est pas l'effet de l'ordonnance, direz-vous ? A quoi donc l'attribuer ? Et si ce premier acte n'a pas porté ses fruits, pourquoi ne pas les attendre ? Pourquoi si vite tenter de nouveaux et plus désastreux essais ? —*Ib*.

21. Monsieur le ministre, à vous sans contredit la gestion de nos affaires, à nous la résignation. Vous voulez des faits, nous en avons cités d'anciens et de nouveaux ; permettez-nous maintenant une dernière réflexion.

Si Napoléon fut aimé du peuple qu'il dictait par la guerre, c'est qu'il lui donnait l'aisance par le travail. Si les ordonnances de juillet trouvant une si prompte résistance, c'est qu'elles empêchent sans emploi les ouvriers imprimeurs. Après tant de commotions politiques, le peuple a besoin de travail, le pays de repos. Au toi, que nous aimons, nous payons sans murmures d'assez lourds impôts. Nous ne refusons pas nos fils à la patrie. Nos moyens de travail, respectez-les. Que notre population si nombreuse, si calme, si bonne, mais effrayée encore par le souvenir du fâcheux de 1786 et par l'état de nos filatures de coton fin, ne soit pas portée à la désaffection, et qu'elle ne puisse jamais mourir la pense que l'étranger va lui ravir l'aisance et le bonheur dont elle jouit depuis deux ans. Surtout, monsieur le ministre, souvenez-vous qu'un salaire abaissé a deux fois soulevé Lyon.

Nous avons l'honneur d'être, monsieur le ministre, vos dévoués serviteurs,
Roubaix, 5 octobre 1831.

(Suivent 272 signatures.)—*Ib*.

moitié prix de l'autre côté de l'eau ; gardez-vous-en bien !” Quant à la prohibition des machines, il est bien décidé par la majorité de l'opinion publique chez nos voisins, que toute prohibition, même dans la question délicate et difficile de l'exportation des machines, est une sottise ; mais on ne détruit pas tous les préjugés en un jour. Leurs libéraux en matière de commerce, marchent toujours en avant, et cherchent en même temps de l'appui chez nous.

20. Sans doute, c'est le contrebandier qui a produit ce résultat ; c'est-à-dire que le contrebandier a donné aux consommateurs, qui sont la France, de bons cotons à bon marché, en augmentant en sus les salaires d'ouvriers qui peuvent servir la France ; et cela, aux dépens de certains autres qui ne le peuvent pas. Grand grief contre le contrebandier !

21. Une menace ! La France doit y réfléchir. Otez à vos ouvriers, dans quelque autre branche, leurs salaires pour nous les donner, avec perte générale pour la France collective en sus ; sinon, *la désaffection*. Spoliez les ouvriers qui peuvent être utiles à la France, à notre profit à nous qui ne le pouvons pas ; sinon, *soulèvement* comme à Lyon. Reste à savoir si la France se soumettra à tout cela.

22. Q. Would you see any inconvenience, in changing the prohibition which exists on certain kinds of carpets, into a duty of sufficient height?—A. Yes. Whatever duty you put on Turkey and Indian carpets, it will be very difficult for us to stand the competition. These carpets are the fashion. They are also much sought after, because they are warm, good, and not dear. *Examination of M. Fayson, carpet manufacturer, delegate from the Council of Consultation of Abbeville.—Moniteur du Commerce, 1 Nov. 1851.*

23. Q. Are you an exporter?—A. A little. This year I have been fortunate enough to sell some carpets, in England, to one of the ministers who wanted to have some carpets of my manufacture, because they have the reputation of being more lasting than others.—*Id.*

24. TO THE KING OF THE FRANCE.

*The United Workmen of the
factory of Saint Quentin*

Sire, the voice of the unfortunate workmen will go to your heart.

In the gone by days of privations and distress, it was to the heads of establishments that we used to look for help.

They can do nothing for us now, against this project of reform which will shut up their shops. They perhaps, may only suffer in their present interests, or their futurity; but to us, patient as we may be, to us who live only from day to day, futurity, is tomorrow, and the taking off the prohibition, is death. *Journal du Harve, 4 Nov. 1854.*

23. What a shame, that Frenchmen should get carpets that are at the same time fashionable, warm, good, and not dear! Were Frenchmen made to have good carpets, or to pay for carpets that are neither the fashion, nor warm, nor good, nor cheap?

23. What a fool this English minister must have been, who wanted a carpet that would last longer than others! Could not he tell, that it was his duty to order a carpet, that should be of less cost and higher price?

24. It is proper to be very moderate, in answering a population who there can be no doubt find themselves in an exceedingly distressed condition through the consequences of the ignorance and prejudices of the gone by time.

The reform will shut up no shops but those that are injurious to France, to open those that are useful to her and advantageous. To say that to you the taking off the prohibition is death, is saying that you live only by the loss of France, and that you demand that France shall continue to be at this loss, that you may live upon it, and have children to live upon it after you. The most unreasonable of all possible expectations, is to think that France enlightened, well-informed, will go on enduring such a state of things. This being taken for granted, it remains to find out the real amount of individual suffering and private interests which are opposed to the removal of the evil. There will be nothing got on any side by exaggeration. What must most assuredly come to pass, is that the destructive trades will be brought within the

bounds of justice, but so long as there is a certainty of seeing the end of such a state of things, France will be willing to make great sacrifices to soften the shock to individuals concerned, whom nobody thinks of charging with it as a crime. In the first place, there is the great resource, of doing the thing gradually. Secondly, as the absolute improvement of the useful trades must march step by step with the diminution of the destructive ones, there is in this quarter a visible opening for the absorption of the misplaced modes of industry. Thirdly, as all the working-classes without distinction, so far as they are consumers, must receive their share of the benefit that arises to the consumers at large, it is clear that in the aggregate the working classes must be better off than they were before. It would be absurd, and in fact dishonest, to say that none of the workmen in any of the trades that are injurious to France would individually lose anything;

but it would also be absurd and dishonest not to allow, that the danger of the working manufacturers, even in the trades most affected, has a set-off in many ways that might not at first be thought of. It is exactly the case of the copyists at the introduction of printing. It is plain that the fraternity of copyists must have lost by it. But at the same time that copyists were being thrown out of employ, printers must have been in demand; here then was one way for the absorption of at least a portion of the copyists and their posterity. And further, the savings made by the public through the use of printing, must, there can be no doubt, have been laid out in some way or other, and so have freshened various other trades; which goes to make more room for taking up the great copyist family. It was in this way the thing was done in other instances. Where would the civilization of Europe have been by this time, if people had always persisted in using the instrument that was bad and dear, instead of what was good and cheap, through tenderness for superannuated interests?

23. A protective duty will bring prices to a level; the consumer will gain nothing by the alteration; and one half the population will be sacrificed to the other.—*Ib.*

26. All the arguments in favour of our comrades the vine-growers of the South, will not feed our wives and children, who are to be doomed to starve. What millions of brawny arms, will not know what to turn themselves to, nor where to dispose of their services, their vigour, and their toil.—*Ib.*

from disposing of his services, his vigour, and his toil, and at the same time inflict a further loss in the aggregate on France, in which every man is a consumer whatever else he may be besides? If there was a simple balance on the two sides, it would be injustice, but as there is a loss upon the whole, it is silliness besides.

27. *Sir*, your government wanted to extinguish mendicity; it wanted to enlighten the people by instruction, and accustom us to economy by the formation of savings-banks. To get a living, is more urgent than instruction; without the payment of the wages he has a just claim to, it is impossible for a man to be economical; the English and reform will put an end to everything, except mendicity, which will spread over one part of our country after another, like dishonest tatters.—*Ib.*

28. *Sir*, the workmen too have shed their blood for your cause, which is the cause of the nation, and it is among the labouring classes that you count the greatest number of peaceable and devoted citizens. You have pardoned the comrades whom error (perhaps dis-

25. Which way is it to be said, that the consumer will gain nothing? The citizen that buys for two francs instead of three, and lays out the third with the cheesecake-maker, will he not have made a substantial gain of his cheesecakes?

26. Have the vine-growers of the South got neither wives nor children? Has the consumer of wove goods got neither wife nor children? Of what use is it to multiply brawny arms in the North, if it is to be done by extinguishing an equal number of brawny arms in the South, and a further number of brawny arms all over France besides? If it is not good to hinder the men of the North from disposing of their services, their vigour and their toil, will it be any better to hinder the men of the South

27. How are you to extinguish mendicity, by making beggars in the South as fast as you take them away from the North, with an aggregate loss to all the citizen consumers besides? A man has a right to get his living, but not at the expense of other people and the country. It was for this very thing, that people invented laws.

28. There are other people that have shed their blood, without seeing in it a reason why they should repress the industry of others, with a loss to France in her character of consumer besides. To spare the workmen who respect order, is not to oppress other workmen who respect it just as much, with a loss to France in

dustries mal assises. Troisièmement, comme tous les ouvriers sans distinction, en tant que consommateurs, recevront leur portion du gain qui arrivera à cette classe, il est clair qu'il doit rester un surplus de bien pour les ouvriers collectivement. Il y aurait absurdité, et même déception à dire que tous les ouvriers de toutes les industries opposées aux intérêts de la France, ne perdront individuellement rien; mais il y aurait aussi absurdité et déception à ne pas reconnaître que le danger des ouvriers, même les plus menacés, admet beaucoup d'atténuations qu'on pourrait ne pas apercevoir au premier coup d'œil. C'est le cas qui s'est présenté pour les copistes, lors de l'introduction de l'imprimerie. Il est évident que la faculté des copistes dut perdre; mais en même temps que les copistes diminuaient, les imprimeurs durent augmenter; voilà donc un moyen d'absorption pour au moins une partie des copistes et de leur postérité. De plus, les économies provenant de l'institution de l'imprimerie durent, sans nul doute, se placer quelque part, en augmentant diverses autres industries; voilà encore des moyens d'absorption pour la grande famille copiste. C'est ainsi que les choses se sont passées dans les autres cas. Où en serait la civilisation européenne, si l'on avait toujours persisté à se servir d'instruments mauvais et chers, au lieu d'en avoir de bons et à meilleur marché, par considération pour des intérêts surannés?

25. Un droit protecteur nivellera les prix, le consommateur ne gagnera rien au changement, une moitié de la population sera sacrifiée à l'autre moitié.—*Id.*

26. Tous les raisonnements en faveur des camarades les vignerons du Midi, ne pourraient nourrir nos femmes et nos enfants voués à la misère; que de millions de bras courageux ne sautont plus à quoi se prendre, ne sautont plus à qui vendre leur utilité, leurs sueurs et leurs forces! —*Id.*

utilité, ses sueurs et ses forces, en infligeant en outre une perte à la France collective qui ne se compose que de consommateurs? S'il y avait simple balance des intérêts, ce serait une injustice; comme il y a en sus une perte collective, ce serait de plus une folie.

27. Sire, votre gouvernement voulait éteindre la mendicité, il voulait éclairer le peuple par l'instruction et nous habituer à l'économie par

25. Le moyen de dire que le consommateur ne gagnera rien? Le citoyen qui achètera pour deux francs au lieu de trois, et consommera le troisième franc chez le pâtissier, ne réalisera-t-il pas le gain de sa pâtisserie?

26. Est-ce que les vignerons du Midi n'ont ni femmes ni enfants? Est-ce que le consommateur de tissus n'a ni femme ni enfants? Que sert-il d'alimenter des bras courageux dans le nord, en supprimant un nombre égal de bras courageux dans le midi, avec suppression d'un surplus de bras courageux dans la France collective en sus? S'il n'est pas bon d'empêcher ceux du nord de vendre leur utilité, leurs sueurs et leurs forces, pourquoi serait-il mieux d'empêcher l'homme du midi de vendre son utilité, ses sueurs et ses forces, en infligeant en outre une perte à la France collective qui ne se compose que de consommateurs? S'il y avait simple balance des intérêts, ce serait une injustice; comme il y a en sus une perte collective, ce serait de plus une folie.

27. Comment éteindre la mendicité, en faisant des mendiants dans le midi pour en ôter au nord, avec perte collective pour les citoyens consommateurs en sus? Un homme a le droit de se nourrir; mais non aux dépens des autres

tree) had led into insurrection; spare then the workmen who have no fault to expiate, no repentance to acknowledge; spare the workmen who respect order and the laws, and surround your person with their numerous benedictions.—1b.

29. Born to toil and to endure, slaves to our duties, we patiently accomplish our destiny. Working makes us forget sufferings; do not then allow us to be deprived of that.

Hunger, disgrace, and despair, are waiting to fasten on us, the day we cease to work.

We have the honour to be *She*, your Majesty's, &c.—1b.

the aggregate besides. *Order*, is doing equally by all.

29. What would he said to a market-woman, that tried to upset the stall of her neighbour, and said "I am accomplishing my destiny"? Has not her neighbour got a destiny too? If hunger, disgrace, and despair are waiting for you the day you cease to work, they are waiting for those too that you hinder from working. There is a word upon this subject, old, but good; *justice*.

Let the working-men only examine the big words with which they are deluded. What is it these people mean by *competition*? It is the

competition of your countrymen who can supply with a profit to France in the aggregate, what you can only supply at a loss. What do they mean by *conquest*? Suppose they had got to what they have taught you to call *conquest*; that is to say, that after a succession of losses to France, they had got to manufacture certain goods as cheap as they could be had from the foreigner;—what would France have gained by it? Not a farthing. She would have made great sacrifices, to arrive at a result without a difference. If it is replied that the improvements may be carried further,—why prefer a contingent improvement and preceded by losses, to one that would be certain, and without previous injury to the natural kinds of industry which must be sacrificed? No fact is better ascertained, than that the protected industries do not advance; and natural ones do; it is one of the simplest inferences from statistical observation. Will it be answered, that it is for the security of France that she should as much as possible possess everything within herself? This is not security, but insecurity; it is the security of the old feudal times, when everybody wanted to have everything within himself, because he meant to be the enemy of everybody else. Now, as then, the more people can bind themselves together by mutual interests, the more they will increase the security of all. What is it too, they have taught you to call being *tributary*? It is like a man talking of being tributary to the cow for milk.

30. Q. What is your opinion, as to removing the prohibition, and laying a protecting duty instead?—A. The question so put, is impossible to answer. I must beg permission to put it in the way I understand it. I am quite aware that the prohibition cannot be kept up for ever; and I expressed myself to this effect in the memorial. I had the honour to address to the minister of commerce. But we have not yet got to the point, where our manufacturers of woollen cloth can, without an immense loss, support the removal of the prohibition. Is it in the interest of what are called the consumers, that this measure is proposed; and if so, will it gain its object? It is a question of prodigious magnitude

30. There appears nothing in all this, that is any answer to the arguments of the opposite side. It is a question of prodigious magnitude; which is true enough, for the loss is prodigious. The objection founded on *reaction* might be applicable to sudden alterations, but not to gradual ones, which are what all sensible people ask for. Supposing the question of graduality settled, the *recueil* that we are threatened with is only a bugbear for the foolish. It will affect no kind of industry but those it is the interest of France to see affected. It will improve all the others, by dividing among them the demand arising from the relief given to all the consumers in the country.



les caisses d'épargne. La nourriture est plus nécessaire encore que l'instruction, sans le paiement d'un salaire justement mérité, l'économie est impossible, les Anglais et la reine vont tout détruire, tout, excepte la mendicité qui s'étendra sur nos contrées comme un haillon déshonorant.—*Ib.*

et de sa patrie : c'est précisément pour cela que sont faites les lois.

28. Sire, les ouvriers ont mis à l'épave leur sang pour votre cause, qui est celle de la nation, et c'est parmi les populations laborieuses, que vous comptez un plus grand nombre de citoyens paisibles et de vœux. Vous avez pardonné aux camarades que le lieu (la détresse peut être) avait jetés dans l'émeute, épargnez donc les ouvriers qui n'ont pas de faute à expier, pas de repentir à connaître, épargnez les ouvriers qui respectent l'ordre, les lois, et qui entourent votre personne de leurs nombreuses bénédictions.—*Ib.*

28. Il en est d'autres qui ont répandu leur sang, sans y voir une raison pour comprimer l'industrie d'autrui, en infligeant une perte à la France consummatrice en sus. Épargner les ouvriers qui respectent l'ordre, ce n'est pas en opprimer d'autres qui le respectent également, avec addition d'un dommage à la France collective en sus. L'ordre, c'est la légalité.

29. Nos pour travailler et suffire esclaves de nos devoirs, nous accomplissons patiemment notre destinée. Le travail fut oublié les calamités, ne permettez pas qu'on nous en prive.

La faim, la honte et le désespoir sont là qui nous attendent le jour où nous ne travaillerons plus !

Nous avons l'honneur d'être, sire, de votre majesté les plus humbles et respectueux serviteurs.—*Ib.*

29. Que répondrait-on à une femme de la Halle qui voudrait renverser la boutique de sa voisine, en disant : "Je vais accomplir ma destinée" ? N'est-ce pas que la voisine a aussi une destinée ? Si la faim, la honte et le désespoir vous attendent le jour où vous ne travaillerez plus, ils attendent aussi ceux que vous empêchez de travailler. Il y a là un mot, ancien, mais bon, c'est celui de *justice*.

• Que les ouvriers examinent les grands mots dont on veut les bercer. Qu'entend-on par *concurrence* ? C'est la concurrence de vos concitoyens qui peuvent fournir avec gain à la France collective, ce que vous ne pouvez fournir qu'à perte. Qu'entend-on par *conquête* ? Supposons qu'on soit arrivé à ce qu'on vous a

nommé *conquête*, c'est-à-dire qu'après une série de pertes pour la France, on soit arrivé à fabriquer certains objets au même prix auquel on les recevait de l'étranger, qu'est-ce que la France aurait gagné ? Rien. Elle aurait fait de grandes pertes, pour arriver à un résultat sans difficulté. Si l'on répond que le perfectionnement peut encore aller plus loin, pourquoi préférer un perfectionnement hypothétique et plein de pertes, à un perfectionnement assuré, et sans pertes préalables infligées aux industries naturelles qu'on a sacrifiées ? C'est un fait avéré, que les industries protégées ne croissent pas, et que les industries naturelles croissent ; c'est ce qui résulte de la plus simple observation statistique. Répondrait-on qu'il est dans l'intérêt de la sûreté de la France qu'elle ait autant que possible tout en elle-même ? Ce n'est pas la de la sécurité, mais de l'insécurité ; c'est la sécurité des temps féodaux,

in which all the interests of France are concerned, and in which every kind of industry has an interest. It is impossible to touch the two great leading branches, those of woollen and cotton cloths, without there being a reaction on all the rest, and particularly on agriculture; for the introduction of foreign cloths is to agriculture the same as importing the raw material; and to manufacturing industry it is the same as introducing the materials in every manufactured form, which would amount to taking from it all employment whatever. The consequence therefore would be incalculable mischief.

The recoil will affect all the other kinds of industry, and in the end both private property and public revenue.—*Examination of M. Cunin-Gridaine, cloth-manufacturer at Sedan, delegate of the Consultative Chamber of Sedan.* (*Moniteur du Commerce*, 2 and 3 Nov. 1834.)

31. We should be glad if Lord Durham or any of the radical economists would tell us what they mean by *privilege* and *monopoly*. In good French, as in good English, these words to a certainty have only one meaning, which is that of the concession or enjoyment of a peculiar right, in which the rest of mankind are not allowed to share. Thus, by the application of this very simple definition, the exclusive exercise of a profession or trade is a privilege, or a monopoly; but where everybody that chooses is at liberty to exercise a profession or trade, there is not and cannot be either privilege or monopoly. Now this is exactly what takes place both in France and England.—*Moniteur du Commerce*, 5th Nov. 1834.

32. Nothing but private property is a monopoly; for that gives the exclusive right to the thing and the enjoyment of it, to the owner. But it is a sacred kind of monopoly on which society altogether is founded; and it is not presumable that Lord Durham means to go about to reform it.—*Id.*

33. God forbid we should blame his Lordship for having coals to sell and wanting to sell as many as he can. But he ought not to make a sentimental affair of it, and mix it up with the civilization and liberties of the human race.—*Journal des Débats*, 4th Nov. 1834.

34. Before launching his anathema at the French manufacturers, why then did not Lord Durham recollect, that he could not condemn them, without condemning the English manufacturers too?—*Id.*

35. You have talked of the public that protest. What part of the public is it that protests, or at all events has any interest in protesting?—*Examination of M. Mimerel, spinner and manufacturer of cotton, Delegate of the Chambers of Commerce of Lille, Roubaix, and Turcoing.* (Answer of M. Mimerel).—*Id.* 7th Nov. 1834.

31. A mere confusion between different things it is usual to call by the name of *privilege* or *monopoly*. If a certain number of French weavers had the exercising of that trade to the exclusion of any other Frenchman that should wish to be a weaver, this would be, in one sense, what is called monopoly; which may exist along with a total absence of either prohibition or duties upon foreign cloths. But if, going beyond this, the weavers demand to make use of the public force to hinder the introduction of foreign cloths, this is a monopoly of quite a different kind. In monopolies as everywhere else, the things are not all alike that go by the same name.

32. Confusion of words, again. Whether the monopolists be more or fewer, it does not the less follow that they are laying hands upon the property of their fellow-citizens.

33. Go without coals! Do not want to have claret? This is what has been called out, on both sides of the Channel. Ministers of all countries, wherefore are you ministers? Is it to hinder us from having coals and claret?

34. He means to condemn them both, so far as they set themselves to defend monopoly. There is not much difficulty in settling that.

35. The parts of the public that protest, are the two kinds of trade that lose what you intend to take, and I who am made to pay the difference of price.

où chacun voulait avoir tout en lui-même, parce qu'il devait être ennemi de chacun. Aujourd'hui comme alors, plus on se liera par les intérêts mutuels, plus on augmentera la sécurité de tous. Que vous a-t-on appris à appeler *tributaire*? C'est comme si on se disait tributaire de la vache pour le lait.

30. D. Quelle est votre opinion sur la levée de la prohibition remplacée par un droit protecteur?

—R. La question ainsi posée ne peut être résolue. Je demanderais la permission de la présenter comme je l'entends. Je suis convaincu que la prohibition ne peut pas être perpétuelle. C'est dans ce sens que nous nous sommes exprimés dans le mémoire que nous avons adressé à M. le ministre du commerce, mais nous ne sommes pas encore ar-

rivés au point où nos fabricants de tissus de laine puissent, sans un dommage immense, supporter la levée de la prohibition. Est-ce dans l'intérêt de ceux qu'on appelle les consommateurs que la mesure est proposée, et, dans ce cas, attendra-t-on le but qu'on a en vue? C'est une question immense dans laquelle tous les intérêts de la France sont engagés, dans laquelle toutes les industries se tiennent, on ne peut toucher aux deux plus grandes industries, celles qui produisent les tissus de laine et les tissus de coton, sans qu'il y ait réaction sur toutes les autres et surtout sur l'agriculture, car l'introduction des tissus étrangers equivaut, pour elle, à l'introduction de la matière première, et, pour l'industrie, à l'introduction de la matière première dans toutes ses transformations, ce qui lui enlèverait tout travail. Il en résulterait donc un dommage incalculable.

Le contre-coup affectera toutes les autres industries et par suite la propriété particulière et les revenus publics — Interrogation de M. Guin-Chidaine, fabricant de draps à Sedan, délégué de la chambre consultative de Sedan. (Moniteur du Commerce, 2 et 3 novembre 1831.)

31. Nous voudrions bien que lord Duham et tous les économistes radicaux nous expliquassent ce qu'ils entendent par *privilege* et *monopole*. En bon français, comme en bon anglais, sans doute ces mots n'ont qu'une valeur. C'est celle qui exprime la pensée de l'octroi ou de l'usage d'un droit particulier, auquel la généralité ne peut participer. Ainsi, pour appliquer cette définition fort simple l'exercice exclusif d'une

30. On ne voit rien ici qui réponde aux arguments opposés. C'est une question immense, c'est vrai, parce que la perte est immense. L'objection de la réaction pourrait être dirigée contre des changements subits, mais non contre les changements progressifs, que demandent tous les gens prudents. Sauf la question de gradualité, le contre-coup dont on nous menace n'est qu'un épouvantail pour les ignorants. Il n'affectera d'autre industrie que celle qu'il est de l'intérêt de la France de voir affecter. Il augmentera toutes les autres, en répartissant entre elles les demandes de tous les consommateurs dégrevés.

31. Pure confusion entre diverses choses auxquelles on a l'habitude d'attacher la dénomination de *privilege* ou de *monopole*. Si un certain nombre de tisserands français avaient l'exercice de cette industrie, à l'exclusion de tout autre Français qui devint être tisserand, ce serait là, dans un certain sens, ce qu'on appelle *monopole*, lequel peut coexister avec une absence totale, soit de prohibition, soit de droits sur les tissus de l'étranger; mais si les tisserands demandent de plus qu'on fasse usage de la force publique pour empêcher l'introduction des tissus étrangers, voilà un *monopole* d'une tout autre espèce. En matière de

36 There is no use in saying that England will not come and throw all her goods at a losing price upon our markets. It is all a mistake when a manufacturer is in difficulties and obliged to make sacrifices to meet his engagements, he had rather make them in a foreign country than at home, and in a country that is near than in one a long way off. By this he gains two advantages, preserving his credit and not bringing down the price of his own goods in his home market —*Id.* 8th Nov 1834

37 What happened in the case of your twist takes place in our fine numbers in the market at Taric where the English thread *crushes* ours. They played us a sad trick when they fixed the entrance duty at seven francs the kilogramme, instead of ten as the minister had promised us.

In my opinion gentlemen M Schlumberger is quite out on the nature of the evil, and the duty might be at 10 francs and still the English cottons would *crush* his. Either we shall spin no more fine cottons, or the prohibition must be restored —(Extract of Letter) *Id.*

38 But to show you in gross the difference between the cost price of a certain number of pieces of muslin of the same quality in France and in England under the respective circumstances of the two countries I shall lay before you the following Table calculated on the making of 30 000 pieces. (Here follow the details)

Difference between the cost price of these goods in France and in England, 107,78 francs — Examination of M Henry Basset manufacturer of muslin at Rouen, Delegate from the Chamber of Commerce of Rouen. (Answer of M Barbet) —*Id.* 14th Nov 1834

39 It will be enough for us to refer to Portugal which before the Treaty with England had a manufacture of cloth and woollens that were in very great prosperity and gave a comfortable support to a great number of individuals. Now, they are destroyed and it would be in vain to look for the places where they stood. The deepest misery has succeeded to the comfort this population used to enjoy. In Spain, exactly the same. And the consequence is that now, when these states are thinking of recovering their weight in Europe and ceasing to be tributary to foreigners, they are establishing a different system. It is just the same in Russia in Germany in Prussia. And gentlemen, without going to seek examples among our neighbours, let us only look at home, and see what was the state of things previous to 1786 —*Id.*

36 If England should take into her head to throw everything she has upon the coasts of France,—if it should ruin English cloths, as it ruins toads,—what ought to be the conclusion? Would it be that we should refuse the cloth? Would they say to the French people, 'Do not wear these cloths for nothing. You will be the worse for it. Sooner give the ten francs, that you had meant for the sausage-maker or the cheesecake-man.' But it is an extravagant supposition altogether. How long is it since the English began to throw away their goods?

37 *Crushing*, means giving cheaper. Is it to be set down then, that a Frenchman lives to enjoy himself, or to pay money?

38 Whereupon the individual under examination recommends this value of 107,75 francs to be taken once from the trades on which it would naturally have been spent if it had been left with the consumers, and *once more* from me the consumer besides.

39 The fact is, that Portugal gave over manufacturing her cloth at a high price, when she found out that she could buy better and cheaper with her wine, and increase the wealth of Portugal, which was not much to begin with, by the difference. If the system has been altered, it was not through any wisdom of the Portuguese, but because the English knew better than to drink the bad wine of Portugal, when they might get good from France.

profession ou d'une industrie est un privilège, un monopole ; mais là où chacun peut exercer librement cette profession, cette industrie, il n'y a pas et ne saurait y avoir ni privilège ni monopole — or, c'est ce qui arrive en France comme en Angleterre. — (*Moniteur du Commerce*, 5 novembre 1831.)

32. *La propriété seule est un monopole, puisqu'elle donne un droit exclusif sur la chose et sur sa jouissance à celui à qui elle appartient. Mais c'est un monopole sacré sur lequel la société entière est fondée, et nous ne pensons pas que lord Durham songe à reformer celui-là. — lb.*

33. Nous ne blâmons point, à Dieu ne plaise ! la seigneurie d'avoir du charbon à vendre et d'en vouloir beaucoup vendre, mais il ne faut pas faire cela une affaire de sentiment et y mêler la civilisation et la liberté. — (*Journal des Débats*, 1 novembre 1831.)

34. Avant donc de lancer l'anathème contre les fabricants français, comment lord Durham n'a-t-il pas réfléchi qu'il ne pouvait pas les condamner sans condamner aussi les fabricants anglais ? — *lb.*

35. R. Vous avez parlé du public qui réclame, quelle est donc la partie du public qui réclame, ou du moins qui a intérêt à réclamer ? — *Interrogation de M. Mimerel, député et fabricant de coton, délégué des chambres de commerce de Lille, Roubaix et Tourcoing*

36. Vainement dirait-on que l'Angleterre ne viendrait pas jeter tous ses produits à bas prix sur nos marchés. C'est une erreur quand un fabricant est dans la gêne et qu'il est obligé de faire des sacrifices pour satisfaire à ses engagements, c'est plutôt dans un pays étranger que chez lui, c'est plutôt dans un pays voisin que dans un pays

monopole, comme en toute autre, il y a fagots et fagots.

32. Encore une confusion de mots. Que les privilégiés soient plus ou moins nombreux, il n'en résulte pas moins qu'ils s'approprient le bien de leurs concitoyens.

33. N'ayez pas de charbon ! Ne désirez pas du vin de Bordeaux ! C'est ce qu'on a crié des deux côtés du détroit. Ministres de tous les pays, pourquoi êtes-vous ministres ? Est-ce pour nous ôter notre charbon et notre vin de Bordeaux ?

34. Il veut les condamner tous en tant qu'ils s'attachent à la défense du monopole. Il n'y a pas grande difficulté à cet égard.

condamner aussi les fabricants anglais ? — *lb.*

• 35. Ceux qui réclament, ce sont les deux espèces d'industrie qui perdent ce que vous voulez gagner, et moi sur qui frappe en sus la différence des prix.

(Réponse de M. Mimerel.) *lb.* 7 novembre 1831.

36. Si l'Angleterre s'avisait de jeter tout ce qu'elle possède sur les côtes de France, s'il nous arrivait une pluie de tissus anglais comme il y a des pluies de grappes, qu'est-ce qu'on en devrait conclure ? Est-ce qu'on rejetterait ces tissus ? Dirait-on aux Français : "On vous conseille de n'en pas porter gratuitement ; cela vous ferait mal. Donnez plutôt les dix francs, que vous aviez destinés au charcutier ou au pâtissier." Mais c'est une supposition exagérée. Depuis quand est-ce qu'on a vu les Anglais jeter leur marchandise ?

40. A. We are exceedingly sorry that the persons who, in their writings, have attacked the existing system, have not come before the council to defend their opinion there. If instead of a system founded on probabilities and surmises, they had opposed to us facts, we could have answered them. But what astonishes us more than all, is that the press which calls itself so liberal, proves it so ill in the present case; for it refuses to note our observations. (Answer of M. Barbé).—*Id.*

41. If the removal of the prohibition could open us new channels for our industry, or increase the total of consumption which our manufactures supply, I could imagine some use in the measure. But if, as is my belief, it would have no effect but to bring the productions of foreigners into our market to share in our consumption, I am bound to regard the measure as ruinous, and I protest against it in the name of the general interest of my country.—*Id.*

42 I will finish with this observation, which was made by the manufacturers of cotton in a memorial which they presented to the Chambers in 1815.

‘No man can feel any doubt about the lively interest the English show to obtain a Treaty of Commerce (which would remove the prohibition). This

is the best answer that can be made to those who want to have such a Treaty concluded, for the English must be supposed competent to know what is good for themselves.—In commercial affairs, it may be laid down as an axiom, that what the English want to procure the French ought to be afraid to allow’—*Examination of M. Caumont, President and Delegate of the Chamber of Commerce of Rouen*—(Answer of M. Caumont).—*Id.* November 10th, 1854.

40. There is no difficulty about having facts. Why has nobody asked the witness under examination, ‘If there was liberty of trade, do you think that supplying the goods to be given for the foreign cloths would make a gain to anybody, and to what amount? Do you think that the expenditure of the difference of price by the consumer would make a gain to anybody, and to what amount? Do you think that these two gains put together might equal what *you* would lose? Do you think that after this, the gain of the consumers, who are France, would stand out as nett profit, without anything to be set off?’ It is pity there should be any scarcity of facts.

41. The liberty of commerce would increase the aggregate total of consumption, by all the difference of prices; in the same manner as the quantity of wood a man cuts, will be increased by the liberty of using a sharp hatchet instead of a blunt one.

42 Why is not the butcher of Paris to be afraid to buy from the dealer at Sceaux [*the great cattle market near Paris*]? Why does he not maintain like the memorialists, that whatever is for the interest of the man at Sceaux, must necessarily be a suspicious business for the man at Paris, who consequently ought to have nothing to do with his cattle?

éloigné qu'il les consomme. Il y trouve deux avantages, celui de conserver sa réputation et celui de ne pas déprécier ses produits sur le marché national.—*Ib.* 8 novembre 1834.

37. Ce qui est arrivé à vos fils retors, à leur pour nos numéros fins, sur la place de Tarare, ou les files anglaises écrasent les nôtres. On nous a joué un mauvais tour, en fixant à 7 fr. par kil. le droit d'entrée, au lieu de 10 fr. que nous avait promis le ministre.

Dans mon opinion, messieurs, M. Schlumberger s'abuse sur la nature du mal, et le droit serait à 10 fr., que les cotons anglais écraseraient encore les siens. Ou nous ne filons plus de cotons fins, ou la prohibition sera établie.—(*Extrait d'une lettre.*) *Ib.* .

38. Mais pour vous faire connaître en masse la différence qu'il y a entre le prix de revient d'une certaine quantité de pièces d'indiennes de même qualité fabriquées en France ou en Angleterre, dans les conditions respectives des deux pays, je vais mettre sous vos yeux le tableau suivant, calculé sur une fabrication de 10,000 pièces. (*Suivent les détails.*)

Différence entre le prix de la marchandise en France et en Angleterre 107,758 fr. — Interrogation de M. Henry Barbé, fabricant d'indiennes à Rouen, délégué par la chambre de commerce de Rouen. (Réponse de M. Barbé.)—*Ib.* 9 novembre 1834.

39. Il nous suffira de citer le Portugal, qui, avant le traité avec l'Angleterre, avait des fabriques de draps et de tissus de laine qui étaient en très-grande prospérité, et qui procuraient l'aisance à un grand nombre d'individus, maintenant elles sont détruites, vainement on chercherait la place où elles ont existé, la misère la plus profonde a remplacé l'aisance dont jouissait cette population. En Espagne, même résultat. Aussi, maintenant que ces états veulent reprendre leur prépondérance et n'être plus ainsi tributaires des étrangers, ils établissent un autre système, il en est de même en Russie, en Allemagne, en Prusse. Et, messieurs, sans aller chercher des exemples chez nos voisins, reportons nos regards sur notre pays, voyons ce qui se passait avant 1786.—*Ib.*

40. R. Nous regrettons beaucoup que les personnes qui, dans des écrits, ont attaqué le système qui existe aujourd'hui ne soient pas venues devant

37. Écraser c'est donner à meilleur marché. Tâchez à dire que le Français existe pour jouir, ou pour payer?

• 38. Sur quoi l'individu interrogé conseille que cette somme de 107,758 francs, continue d'être enlevée une première fois aux industries sur lesquelles elle serait naturellement dépensée si on la laissait aux consommateurs, et une seconde fois en sus à moi consommateur.

39. C'est que le Portugal a cessé de fabriquer de mauvais draps à mauvais marché, quand il a pu les acheter à meilleur marché avec ses vins, en augmentant de la différence la richesse peu considérable du Portugal. Si le système a changé, ce n'est pas par le fait de la finesse des Portugais, mais parce que les Anglais ont été trop fins pour boire le mauvais vin de Portugal, pouvant en obtenir du bon de la France.

40. Il n'est pas difficile d'avoir des faits. Pourquoi n'a-t-on pas demandé à la personne interrogée : S'il y avait liberté de commerce, croyez-vous que l'achat des tissus de l'étranger dût apporter un gain à quelqu'un, et jusqu'à

le conseil pour y soutenir leur opinion ; si au lieu d'un système basé sur des probabilités, on nous avait opposé des faits, nous aurions pu y répondre, mais ce qui doit surtout nous étonner, c'est de voir que la presse qui se dit très-libérale, le prouve si mal dans cette circonstance ; elle refuse d'enregistrer nos observations. (Réponse de M. Barbet.)
—*Ib.*

41. Si la levée de la prohibition pouvait ouvrir de nouveaux débouchés à notre industrie, et augmenter la masse de la consommation que nos fabriques alimentent, je concevrais une telle mesure, mais si, comme je le crois, elle ne peut avoir pour effet que d'amener les produits étrangers sur notre marché pour y partager notre consommation, je dois regarder cette mesure comme désastreuse, et je la repousse dans l'intérêt général de mon pays.—*Ib.*

42. Nous finissons par cette réflexion que firent MM. les manufacturiers en coton dans un mémoire qu'ils présentent aux Chambres en 1813,

“ On ne peut révoquer
“ en doute le vif désir que
“ témoignent les Anglais
“ d'obtenir un traité de
“ commerce (la levée de

“ la prohibition). C'est la meilleure réponse à faire à ceux qui pressent de le conclure certes on peut les croire compétents pour juger ce qui leur est favorable.—
“ En matière commerciale, on peut réduire en axiome que ce que les Anglais désirent
“ obtenir, les Français doivent essayer de l'acquiescer.” — *Interrogatoire de M. Caumont, président et délégué de la chambre de commerce de Rouen.* (Réponse de M. Caumont.)
— *Ib.* 10 novembre 1831.

quel point ? Croyez-vous que l'application de la différence du prix par le consommateur dût apporter un gain à quelqu'un, et jusqu'à quel point ? Croyez-vous que ces deux gains ensemble pussent égaler vos pertes ? Croyez-vous qu'après cela, le gain des consommateurs, qui sont la France, restât net et sans compensation aucune ? Il serait dommage qu'il y eût à cet égard disette de faits.

41. La liberté du commerce augmenterait la masse de la consommation collective, de toute la différence des prix ; de même que la quantité de bois coupé serait augmentée par la liberté de se servir d'une hache affilée au lieu d'une hache obtuse.

42. Pourquoi le boucher de Paris ne craindrait-il pas d'acheter du marchand de Secaux ? Pourquoi ne soutiendrait-il pas comme les memorialistes, que ce qui est dans l'intérêt de l'homme de Secaux, doit nécessairement être suspect à celui de Paris, qui par cette raison, ne lui prendra pas de son bétail ?

FIN DE LA CONTRE-ENQUÊTE.

The Roman sold the field the victor of Cannæ was encamped upon, as if nothing extraordinary had occurred. The commercial mission is going on, though the ground is temporarily occupied by the Hannibal of Mont Saint-Jean.

ART. XVI.—1. *On the Present Crisis*. An Address to the Electors of North Derbyshire. By T. Gisborne, Esq M.P.—London, Ridgway Chesterfield, Woodhead, Ford. pp 8 7 Dec. 1834.

2 *On National Property, and on the Prospects of the Present Administration and of their Successors*—London, Fellowes. 1835.

MORALISTS and preachers take advantage of the new year to review the past, and enforce resolutions for the future. Merchants take stock of their wares, balance their accounts, and adjust the state of their affairs. Honest people pay their debts if they can. Enmities are abandoned, friendships are formed, hospitalities exchanged, and all prepared to begin an aia, or to arrange future operations. What people do in individual and social matters, is not unbefitting in political. The past year has been most favourable for this purpose, closing a period rich in incident, with a position of public affairs never exceeded in interest and importance.

The people have before them the two sides of their account with their rulers. They know the problem to be solved. Shall the powers of evil, or the powers of good have the ascendancy? Where shall rest the decision? Shall it be in the few, or in the many,—for one, or some, or all?

The Whigs, like Napoleon and so many others, refused to do right when they might, and they are broken to pieces. Half principles will not suffice, one whit more than half honesty. Human nature may be weak, knowledge may be limited, experience may be wanting; still the sincere, honest, hearty effort, and nothing else, can do good.

The proceedings of the whole year have made manifest the feebleness of Whiggism and compromise, and it has ended in what everybody said it would, the return of the party whose object and principle is everywhere to sacrifice the good of the community to that of the few. There is this good, at least, that the Goliath is before us.

There is a greater good still. The source of the overthrow of the Whigs is now put beyond question. The court has put itself in opposition to the country, by adopting the Tories, who are the people's enemies.

A seer of political events might have foretold this issue, and it requires no seer, to discover what is to come after. By a *coup d'état* with quite a different object, the king has saved the country from the greatest danger that could have happened. The people despairing of the successful issue of the principle of Reform through want of leadership, might have sunk one part into apathy or fear, and the other into impatience or violence. By

this timely stroke, all people have been thrown into their proper rank ; and there is fair hope of the good fight being fought.

It is not worth while to go into a tedious inquiry of how all this came about. The Whigs were weak, because they had not learnt the strengthfulness of honesty. The court and the king had long wished to get rid of them. The Tories were known to be ready. And the king seized the first opportunity that offered, for reinstating his friends the Tories.

It is now plain, that the king is adverse to Reform,—moved by what influence, it matters not. The king, it seems, has exercised his prerogative ; whether wisely or well, history is preparing a page to show.

The monarchy, to all appearance, might have lasted for ever, if it could only have got out of its head that the abuses of other institutions were necessary to its existence. Thus, it is said that the House of Lords is necessary to the existence of the monarchy. Now the House of Lords has set itself directly against the hopes and wishes of the great majority of the people, and therefore is considered by them as an evil. At all events, therefore, from the good of the monarchy, the people in their balance-sheet will deduct the evil they consider as derived from the House of Lords. In the same manner the tyranny of the Church of England sectaries, is declared necessary to the monarchy. Another deduction therefore must be made for the evils of the Church, and the same in other instances. The danger of all this is, that instead of the monarchy's being a good which compensates for all these evils, it should at some time be represented to the people as the great unreasonableness, set up and maintained that all lesser unreasonablenesses may flourish untouched under its shadow. There is no use in rashly endangering the strongest cause. There is manifestly a point, beyond which the most ardent admirer of monarchy cannot with safety hazard the object of his worship. Least of all was it politic to add the irritating circumstance, of putting the monarch on the naked and rude exercise of his personal judgment and interference ; a complication of the case most perilous to the advisers, because it is obvious to the meanest capacity, that they can never expect to carry through the matter with advantage to the crown, except by achieving an entire conquest over the people, and returning to the worst and most fearful times of English and of Irish history. Let the least slip or failure occur in the course they have thus marked out for themselves, and the monarchy they profess to love, stands by then act and interference, shorn of all the beams that can be cut off from it by failure in an unpopular design.

The present posture of affairs is an excellent lesson on Reform, for those who desire not revolution, and would cherish, because they love, existing institutions. Before the Reform Bill was carried, it was accounted unsafe to make large demands. The public and its friends were like considerate creditors. They were contented to receive a part at once, with reasonable prospect of the rest at convenient intervals. The daring denial of the necessity of Reform by the Duke of Wellington, entirely shook the Whig tactics. He brought the question to a simple issue. 'There is no evil in the state of the representation.' The whole front of the mischief at once flashed on the public mind. The Whigs had not room to compromise. The public feeling was too strong for them. They could not dally with Reform as a party object, the mere occasion of a field-day display. The national mind was bent on entire Reform; so, spurred on by the excitement of the times, and aided by one or two ardent friends of Reform, they brought forward a plan that surpassed all expectation.

Two years passed away in a doubtful struggle. The public leaders, as a body, betrayed their want of an understanding of the soundness and safety of the principles of their measure. They seemed to regard it less as a measure of national regeneration, than a prudent concession whereby to keep things in nearly the same state as ever.

The Reform Bill was passed; and they proceeded to ulterior Reform,—slowly, spiritlessly, like post horses on a second stage,—whose strength was exhausted by their efforts on the first. They had not been used to run so far or so fast, and the length of the journey and the speed combined to defeat them. What has been done, the whip and spur impelled them to do; but it was impossible to get a third stage out of the same cattle.

In this state of things, came the exercise of the prerogative, in the worst taste of the Czar or Louis XIV. The policy of the advisers of the monarchy in this unfortunate affair, has manifestly been to get possession of the government at a moment when a considerable interval would intervene before the popular force could be brought into action, and try what could be made out of the circumstance. In this point there was some resemblance to the plan of the conspiracy at Paris against Napoleon at Moscow; the object of which was to declare him dead, and take advantage of what could be done before the mistake should be found out. Nothing, however, but the consent of the people to their own undoing, appears to give much probability of the plot's success. And the very calunness of the people is a kind of proof that they are moving

on their point, for nothing in the habits of the numerous classes of the community, leads to the supposition that they are so enervated as not to see, that the question is of going back to all, for the endurance of which they have been accustomed to half despise their fathers. Aristocratic feebleness may announce, that it cannot understand what is going on, and will tell the people when it knows, and it may advise the men in the ranks to halloo, and believe themselves impregnable to twenty times the hostile force that is all the time moving round their flanks. But this will not do for the well informed among the masses, and still less for the honest subaltern leaders. Everybody knows what such counsel means, it means giving up the army to the enemy. Ask the proud man, who thinks to ride rough-shod over the liberties of Europe, and replant the banner of 1815 on the fortress of 'the movement,' what *he* would think of such anility? Diamond must cut diamond, if there is to be any resistance, it must be conducted with the same disciplined vigour, the same cultivated good sense, the same application of strong minds and not of weak, which are arrayed upon the side of the people's foes.

The immediate intentions of the enemy have been kept uncertain. The probability is, that this uncertainty was the best certainty he had been able to hit upon. The 'Times' newspaper was ordered to lick up what it had emitted the day before, upon the subject of 'no Dissolution.' It is one of the advantages which power, acting on the offensive against a people's liberties, will always have, that it can conceal its plans. Besides, the Tories were much better organized than the liberals, inasmuch as the defence of plunder is often a more urgent motive than the recovery, and they would have counted it all joy, if after the utmost of their exertions they had been told that the 'balance of the public convenience,' which means the chance of trampling on the people's interest, required that their efforts should go for nothing.

The Tories had the option of going down in their present ship, or jumping overboard to hinder it. Like other people, they put off the evil hour, and were seen hanging by the ends of ropes, and looking wistfully into the water, in painful meditation on the alternative before them. It certainly seemed difficult in either case, to find out how they were to escape. But no fool's confidence should be displayed, under a state of things where everything that can by possibility be used against the people, is organized and polished to the extreme of preparation, and everything that is in their favour is scattered, postponable, and to be come at, *if* come at, through the channels of the opponent.

Of all existing wonders, surely the most wonderful, is that there exists any popular liberty at all. To see how everything must be strained through the jaws of the enemy, and be come at by picking it out of the very teeth of the parties to be most dreaded! A man cannot obtain justice against a thief, but the lawyers must squeeze it through the silly fiction, that he has justice because the king pleases it, and not that the king is king in order among other things that men may have justice. And still more in nicer questions. If a man was born with a hedge-hog's skin turned inwards, and a great hole in his stomach that everything he ate and drank might run out again, it would only be a type of the practical organization against which the well-being of the public has to contend. As a man on this construction would be a living miracle, so is the marvel little less, by which the European nations that pass for free, preserve the vital principle at all under the difficulties that surround them.

The cant of the day, is 'Measures and not men.' Did anybody ever marry a harlot, and say 'Measures and not women'? And this at once shows the weak point of the fallacy. It lies in supposing that *past* measures do not make part of a man, or woman either, as far as entering into any confidential connexion with them is concerned. Fancy, for example, that after the success at Waterloo, a bevy of French marshals had presented themselves to the British army and had said, 'We do not pretend to deny that you have had a great victory. It is written in the page of history; where it is quite impossible that we should think of disturbing it. But you will not be so exclusive as to say, that one set of men only are to command the British army. We feel certain therefore, that you will let us take our turn.' It would be curious to speculate upon the postures of countenance, with which the various constituencies of that army would have received the annunciation. Or imagine again, that certain interested persons, as for instance, Juno, had done all in their power to destroy a Bacchus, before his birth, and at his birth, and after his birth; and calculate the addle-headedness of such inveterate old women, as should go about recommending to try Juno for dry nurse.

There have been some terrible mistakes made on this point; and men riding at the head of the crack and pattern squadrons of the popular force, have turned round and recommended letting the enemy into the fort; upon an understanding to turn him out again on misbehaviour. All however have not taken this course; and it is agreeable to note the contrast. Here follows the Member for North Derbyshire.

‘Gentlemen, I address you not as a candidate for your representation but as your Representative: a connection which still subsists between us, but which hangs by so frail a thread, that the moment of its dissolution, probably depends on the speed and endurance of successive relays of Italian, Alpine, and French post horses.’

‘You appointed me to watch over your interests, and those of the country, for, you in the House of Commons, and I think that I shall hardly step out of my sphere if, now that Parliament is not sitting, nor likely to sit again during our connection, I invite you to go with me into a Committee on the state of the nation.’

‘Let us consider what was the state of the nation up to the middle of last month.’

‘Externally—the country was at profound peace; a peace which every succeeding year of a liberal administration of the affairs of this country appeared to have consolidated. Important negotiations were known to be going on. The most interesting to this country had for its object an increase in our commercial intercourse with France, on terms of reciprocity; a point on which considerable progress had been made. The Belgian negotiation had lost much of its interest, for, though tedious, it had evidently been so conducted, that it was not likely to lead to war. Internally—greater general contentment and satisfaction subsisted than I, or probably the oldest of you, ever remember. The only persons who were uneasy were those whose privileges, or interests, were likely to be affected by the Reforms which the Government was known to have in progress; privileges and interests held in every instance for the private benefit of individuals, or of castes, either to the detriment, or to the exclusion, of the rest of the community.’

* * * *

‘The revenue was steadily increasing: The Government was *harmoniously* preparing those measures of reform, to which the country was looking forward, against the meeting of Parliament. “There was no such difference of opinion upon great impending public measures as was likely to interfere with the harmonious and united action of that administration.” I quote the words of Lord Melbourne, whose answer to the Derby Address has been put into my hands while I am writing; and I think that even the lowest and most lying Tory paper in existence (if you know where it is to be found) will not venture to impugn his Lordship’s veracity. Such was the internal state of the Government. Externally—up to the last day of the Session, it had been supported in parliament by unexampled majorities. I say, with confidence, that it was trusted by the country—and not without reason. It was trusted by a great majority of the *disinterested* Conservatives. I know it, in many instances, from their own lips. I do not mean that if a somewhat more Conservative Cabinet had been offered to them, they would not have preferred it: but they lived under the Government as then constituted, with confidence and without dissatisfaction. They saw that the Government brought forth no wild or sweeping or subversive changes. They

found, and admitted, that many of their apprehensions as to the working of the Reform Bill had not been verified: the Parliament was not bowed down before popular clamour: no man was assailed in his property or in his station: never was a Parliament more resolute to keep extreme faith with the public creditor, than the first Reformed Parliament.'

'Among reformers some dissatisfaction had existed at the delay of reforms to which they felt themselves entitled. The feeling was alleviated, it was almost wearing away. Some internal changes in the Government which I will not go through, had tended to remove it. But this was not all—reformers (and in using that word, I describe nine-tenths of the intelligent men in England, who have no personal interest in abuses), began first to suspect, and then to perceive more clearly, the position in which, not only the Government, but in which they were themselves placed, by the operations of a party of great influence in high quarters: a party which operates not in the nation, or among the nation's representatives, but in the House of Lords, and in the Court: a party stung to madness, by the loss of power and plunder: a party which has earned, and deserved, and enjoys as it has deserved, the country's hatred: in one word, the Tory party. I do not mean the few ignorant but respectable persons, who are Tories by birth, or bigotry, but without any personal interest in Toryism. I mean the Tory party as it exists in the palace: in the House of Lords; in all the public offices; even in the offices of the Reformed House of Commons, from the highest to the lowest; in the close Corporations; in the Universities; and in the head-quarters of the army, and of the Church. But more of this anon. Reformers began to perceive their situation, and to cling more closely to the existing Government.'

* * * *

'Such I believe to be a fair and an unexaggerated description of the state of the country, up to the 15th of November. On or about that day, an old nobleman full of years and honours, was gathered to his fathers. The necessary consequence was, that the present Earl Spencer was removed from the House of Commons, and from the office of Chancellor of the Exchequer. The late Earl was seventy-six years old, and had been for some time in an infirm state of health. This was no sudden explosion, no thunder-clap. Do you think Lord Melbourne took office a few months ago, without considering how he should get over such an emergency? Do you think he took office knowing that he should be "dismissed" whenever Lord Spencer died? You have no such mean opinion of him. We had all speculated on this occurrence. We all knew, that if the executive in all its branches was sound at heart, there would be no difficulty. There never was a period, when, as far as the country and the parliament were concerned, it was so easy for a Reform cabinet to govern. We used to ask one another constantly, in a familiar way, in the House, "who will be our leader here, when Althorp goes to the Lords?" And we had our various favourites. Some inclined to Lord John Russell—some thought

it would be our distinguished neighbour at Stubbing*—and others the Secretary for the Colonies. When this question was asked, did it occur to any one, to answer—Sir Robert Peel?’

* * * *

‘ Lord Melbourne went to the King to take his commands as to filling up the vacancies, and the King dismissed his Ministers. I am delighted that I did not write to you yesterday as I had intended, because to-day I can use from authority Lord Melbourne’s own word “dismissed.” When I read an account of these transactions in the public papers, I said involuntarily to myself—Is it about this happy, contented, and prosperous country that I am reading? This country, deeply engaged in the pursuits of peaceful industry? This country, so worthily and temperately employed in reforming her institutions, and in endeavouring to bring comfort and happiness to the cottage-door of her meanest inhabitant? This great country, whose slightest convulsion is liable to affect the interests of so many millions of the human race? I seemed to myself rather to be reading of some looseish fellow, who, on an idle day, was amusing himself with howling down a set of nine-pins, and setting up others of a different colour in their place: or of some man, who, being at a gambling-house where they stake money on the coming up of cards of different colours, and having won on the black, should say, in the reckless spirit which befits such an occupation, now I will change my colour, and take a hazard on the red.’

‘ Now I am told that all this is done in the exercise of the Royal Prerogative, which I admit—and *that we must not question it, which I deny. It is an assertion fit for nobody but a slave.* Now this prerogative is either to be under responsibility or not. If it is irresponsible, then his Majesty may send for six men from the ranks of the first regiment of Dragoons, and six from the fore-castle of the Flag-ship at Portsmouth, and make them his Cabinet Council; and some people have even talked of his Majesty going to St. Luke’s, or the Hulks for his Ministers. Well—it is the Prerogative. We are not to question the appointment. We are to wait, I suppose, for the measures of the new Administration. I give the consequences of this argument to the Tories. I will maintain, that the prerogative is only to be exercised under responsibility, and for the benefit of the nation. The only question, therefore, is, where does the responsibility rest? and to that question I will apply myself. First then—It does not certainly rest on the King. It is a necessary principle of our Constitution that no responsibility can rest on the King, except in extra-constitutional cases, that is, cases in which the Constitution provides no remedy within itself; and that it provides abundant remedies in the case which we are discussing, I will shortly show you. Even if we were to suppose a case in which the King carried on all the acts of the Executive by his own mere will, the Constitution would presume advice, in order to create responsibility. In instances like the present, where there is

* ‘Mr. Abercromby.’

no apparent adviser, the party responsible to the country is he who, by his acts, gives effect to the advice. It is not material for us to inquire, though it might be a subject of curiosity, and we may have our own opinions on it, whether the Duke of Wellington was an accessory before the fact; it is enough for us to know that he is an accessory after. But for the act of the Duke of Wellington, the pestilent advice given to his Majesty to dismiss his reforming Ministers, would have fallen effete and inoperative to the ground. It was open to the Duke of Wellington, instead of advising his Majesty to send for Sir Robert Peel, to have addressed his Majesty as follows:—

“The advice given to your Majesty to dismiss your Ministers, would, if unhappily followed, place your Majesty before the country in a very equivocal character. Your Majesty will recollect that when Lord Stanley, the Duke of Richmond, and others, seceded from the Government, your Majesty suffered the vacancies to be filled by men, whose known principles were a pledge to the country, of your Majesty's determination to forward with increased energy the work of Reform. Again, when the resignation of Earl Grey, and of most, or all, the members of your Majesty's then Cabinet, placed the construction of a new Government, naturally and necessarily in your Majesty's hands, your Majesty did not call to your councils those who stood before the country as men of opposite principles to the then self-dissolved administration, but ordered the Government to be re-constructed in such a manner that it should, in the eyes of the public, differ only from the preceding Government, in bearing a still more uncompromising reforming character, both in Church and State; and this Government, so re-constructed, received, in an eminent degree, the support of the representatives of the people. Your Majesty, therefore, in following the malignant advice which has been tendered to you, must either bear the imputation of having acted towards Lord Melbourne's Cabinet, ever since its construction, with a degree of duplicity almost unexampled among Princes, and having been a member of a back-stairs plot against your own Government, and against the Parliament recently chosen; or your Majesty must appear to have acted, in these matters, so interesting to the nation, with a looseness of principle, a trifling levity, or a wanton indifference, which must destroy the affectionate confidence hitherto reposed in your Majesty by a loyal and grateful people. As a faithful subject and counsellor of your Majesty, no act of mine shall sanction and give effect to advice which must be followed by such destructive consequences.”

“Such advice, in substance, it would have become any man, I care not who he might be, to have tendered to his Sovereign on such an occasion. But did the Duke of Wellington so act? Far from it. Whether a member of it before or not, he entered into the plot against his Majesty; he adopted it; he gave effect to it; and became responsible for it. Hitherto we are only considering the Duke of Wellington's guilt towards his Majesty. We are only considering him as a conspirator against his Majesty's character and honour. But he has

something to answer for also to the people. *He has counselled and is responsible for the most arbitrary act, which, since the time of Queen Elizabeth, has been enacted by any British Monarch, who has not lost either his head or his crown.* I do not call the act tyrannical, because it is not tainted with cruelty. He has trifled with the quiet and repose and peaceful and contented industry of this country—not wantonly, but for an object. And for what object? Simply and solely to bring a rejected faction back to power. It is a last and desperate effort to quarter the 'Tory Aristocracy again on the country. It is for nothing else.'

* * * *

'Gentlemen, I have nearly done. I have written to you as I might have spoken, in a desultory manner, and without much pre-meditation. I was determined not to address you till I could speak from some authority as to the dismissal of the late Ministry. That authority, Lord Melbourne's explanations have supplied. I have been obliged to write quick in order that I might keep some pace with Sir R. Peel's post horses. I have not written you a mere electioneering address; indeed I do not know that what I have said has any particular tendency to promote my re-election. You will gather from it, however, that I will not go into parliament to support the Wellington-and-Peel Administration. I will not support them, *because the mode of their admission to power ought to be resisted by every man who is not willing to be a slave: because they are already surrounded by, and must bring into power with them, a corrupt and greedy faction: because the principles and connections, and partialities and antipathies of both, will lead them to place the utmost possible extent of power in the hands of the Aristocracy, in whose hands it always has been abused to the injury of the people; because the one has no perception of, and the other no sympathy with, popular feeling;—because both have always supported and maintained the exclusive privileges of particular classes and bodies, more especially of those classes and bodies who have been long and corruptly linked with Tory Governments; because both of them have always resisted and delayed to the uttermost all substantial, and more especially all popular reforms; and lastly, because general contentment and happiness, and comfort and security, which had been brought to a very low ebb under a succession of Tory Governments, were manifestly reviving under the guidance of men of opposite principles.* If, therefore, you wish to be represented by a supporter of the new administration, you must not look to me. But if you approve of my principles, as evinced by my parliamentary conduct, and as applied to present circumstances by this letter, I will be at my post—I will not fail you at the poll, if you are driven to one; and I will maintain our common principles, when I am again returned as your Representative.

I am, Gentlemen,

Your faithful and obedient Servant,

T. GISBORNE, JUN.

Charnwood Heath, 7th December, 1834.

This is as it ought to be. This is a man with something of the soul strategic. Men do not put a leader at their head to have to tell him when he is to go to the right or to the left ; but to receive the benefit of his individual energy upon emergency.

The next is a remarkable pamphlet, and not a little important to those who can discern the signs of the times. It is anonymous, but apparently by one that has looked history in the face and read of revolutions.

It begins by putting the matter upon its true basis ; which is, that the question is altogether one, of whether certain sets of men shall rob.

‘ The great object and the great difficulty in government is the preservation of individual property. All the fraud and almost all the violence which it is the business of government to prevent and repress, arise from the attempts of mankind to deprive one another of the fruits of their respective industry and frugality. Among savages these attempts produce robbery and theft. To these simple modes of unjust appropriation civilized nations add the less palpable forms of monopoly, combination, and privilege ; abuses which, when of long standing, it is not easy to detect and expose, and which it is still more difficult to remedy, without occasioning much immediate injury to individuals. But the most revolting, and perhaps the most mischievous form of robbery, is that in which the government itself becomes an accomplice ; when the property of whole classes of individuals is swept away by legislative enactments, and men owe their ruin to that very institution which was created to ensure their safety.’—*On National Property*, &c. p. 3.

The connexion between this and the constitutional question, whose decision the country is now entering upon, will readily be supplied.

‘ It has for many years been admitted, that a minister, though appointed by the Crown, and nominally subject to be dismissed *mero motu regis*, without warning or explanation, really holds his office at the will, not of the Crown, but of the two houses of parliament. He might be disliked by the court, he might be unpalatable to the king, it might be his duty, indeed, to take steps which would necessarily produce one, or both of these results ; but while he retained the confidence of the houses of parliament, he was, according to the doctrine which prevailed until the 15th of last November, secure. And the necessity of this principle is obvious. If a minister held office at the caprice of the court, the court, not parliament, would be the field on which the battles for power would be fought. The arts which succeed in courts, and the measures which please courts, would be the arts and the measures adopted. Despotic governments and constitutional governments have each their peculiar merits and their peculiar inconveniences ; but this would be a mode of uniting the faults of both : the slow and cumber-

some machinery of the one, and the ignorance, prejudices, corruption, and vacillation of the other. Even in despotism, where public opinion has acquired any force, deference to that opinion prevents any capricious change. "*C'est moi,*" said Louis XV, "*qui nomme les ministres, mais c'est la nation qui les renvoie.*"

Those whom this reasoning does not convince, may, perhaps, yield to the authority of Mr. Burke. That acute observer, after dwelling on the necessity that a minister should be connected not only with the interests, but with the sentiments and opinions of the people, adds, in words which we might now adopt, "These are considerations which, in my opinion, enforce the necessity of having some better reason in a free country and a free parliament for supporting the ministers of the crown, than that short one, '*That the King has thought proper to appoint them*' There is something very courtly in this; but it is a principle pregnant with all sorts of mischief, in a constitution like ours, to turn the views of active men from the country to the court. What ever be the road to power, that is the road which will be trod. If the opinion of the country be of no use as a means of power or consideration, the qualities which usually procure that opinion will be no longer cultivated. And whether it be right in a State so popular in its constitution as ours, to leave ambition without popular motives, and to trust all to the operation of pure virtue in the minds of kings, and ministers, and public men, must be submitted to the judgment and good sense of the people of England—When a ministry rests upon public opinion, it is not indeed built upon a rock of adamant; it has, however, some stability: but when it stands upon *private humour*, its structure is of stubble, and its foundation is on a quicksand. I repeat it again—he that supports every administration subverts all government. The reason is this: the whole business in which a court usually takes an interest goes on at present equally well in whatever hands, whether high or low, wise or foolish, scandalous or reputable, there is nothing, therefore, to hold it firm to any one body of men, or to any one consistent scheme of politics. Nothing interposes to prevent the full operation of all the caprices, and all the passions of a court upon the servants of the public. The system of administration is open to continual shocks and changes upon the principles of the meanest cabal, and the most contemptible intrigue. Nothing can be solid or permanent. All good men at length fly with horror from such a service. Men of rank and ability, with the spirit which ought to animate such men in a free State, while they decline the jurisdiction of dark cabal on their actions and their fortunes, will, for both, cheerfully put themselves upon their country. They will trust an inquisitive and distinguishing parliament, because it does inquire and does distinguish. If they act well, they know that in such a parliament they will be supported against any intrigue: if they act ill, they know that no intrigue can protect them. This situation, however awful, is honourable. *But in one hour, without any assigned or assignable cause, to be precipitated from the highest authority to the most marked neglect, is a situation full of danger, and destitute of*

"honour. It will be shunned equally by every man of prudence, and every man of spirit." *

'It is to be added, that if this principle is to be abandoned; if the king is to be at liberty, merely because he thinks his own opinion better than that of the nation, speaking through its representatives, to dismiss a government which enjoys the full confidence of the House of Commons; if he is at liberty to do this at his own personal pleasure; this absurdity follows, that his Majesty can act without a responsible adviser in one point, and on one point only, that point being the most important one which he ever can have to consider. The question, who is responsible?—for some one must be responsible—for the sudden and total dismissal of a ministry, has not been decided since our constitution assumed its present form, because in fact it has not been necessary to raise it. A parliamentary vote or a resignation has preceded every previous change. It has now been raised, and painful as the discussion is, it must be decided.'

'The king of course is not responsible. Royal responsibility is inconsistent with monarchical government. Of course, too, it would be absurd to fix the responsibility on those persons who may be supposed to have had private access to his Majesty's ear. The country does not recognize such advisers, either for good or for evil. The domestic comfort and privacy of the sovereign require that those who, filling no political office, are familiarly about his person, should be considered to be, as in reality it is their duty to be, unconnected with politics. The persons on whom this responsibility falls most naturally and most usefully, are those who are to profit by the act in question, the immediate successors of the dismissed administration. If it be once understood that, whether really consulted or not, they are to be considered as having advised the measure which, by their acquiescence, they have adopted, and that no administration, for whom a vacancy has been made by a court intrigue, or by mere personal predilections or dislikes, or by caprice, or, in short, on any ground of which parliament does not recognize the sufficiency, however personally eligible, will receive parliamentary support, we shall return to our established system, and the events of last November will be a warning instead of a precedent.'

'It may be asked then, what was the Duke of Wellington to do when he was summoned from the hunting-field at Strathfieldsay, and the King threw himself on his loyalty? Was he to refuse to aid the King in his difficulties?'

'Unquestionably it *was* his duty so to refuse.'

'It was his duty to say, not in words, but in substance, "Four months ago, your Majesty appointed Lord Melbourne your minister. The country approved of the choice, and nothing has occurred to diminish its approbation. I cannot be a party to any change which has even the appearance of having originated in intrigue, or caprice, or any personal feeling whatsoever."

* "Thoughts on the Cause of the Present Discontents.—Burke's Works, Vol. II. pp. 265, 326."

'It is now the duty of the houses of parliament to say "*We will not bind on our necks, and on those of our posterity, a yoke from which the country has worked itself free. We will not abandon the trust which the practice of the constitution has reposed in us of deciding by what party the government shall be carried on.*"

'It will be the duty of the electors, if Sir Robert Peel shall be blind enough to appeal to them, to proclaim, "*We will return those men, and those men only, who will maintain their station as representatives of the people. We have not broken the chains of an oligarchy to put on those of a court. We will not sanction a single step towards a return to those unhappy times, when the sovereign was the real minister, and placed and displaced at pleasure, the puppets who bore the name.*"

'It appears, therefore, that under any combination of circumstances, the present administration cannot stand. And the arduous question is forced upon us, On what terms are their successors to take office ?

'It is obvious that they cannot accept it *simpliciter*, without pledge or condition, subject to be summarily ejected, while apparently possessing the full confidence of the crown, and of the people, without even a pretext that will bear a moment's discussion. *Some pledge must be given, and it must be more than a mere nominal pledge : it must consist of something more than mere words, which four months after may be forgotten or explained away, or disavowed. It must be a pledge, deriving its force, not from the giver, but from the thing that is given. It must be a pledge, not merely promising the means of good government, but actually affording them.*

'Our readers must at once acknowledge that only one such pledge is possible, and that is, a majority in the House of Lords. It is now admitted, indeed it has long been obvious to every impartial observer, that ever since the passing of the Reform Bill the hostile majority in the lords has been the great obstacle to measures of improvement, and even of safety. While that majority continues virtually impregnable, it is the master of the administration, the House of Commons, and the country. Even Sir R. Peel, at the late Mansion-house dinner, promised the redress of only those abuses which can be remedied, "*consistently with the independent action of the House of Lords.*" Of what use is the expensive farce of elections, debates, and votes, if a small, compact, irresponsible, and practically unalterable body, can oppose, and for ever maintain, a peremptory veto? If the House of Lords is the ultimate court of appeal, not only on civil but on political matters, before whose tribunal the Commons are allowed indeed to debate every question, but without power to influence the judgment ?

'It may be said, perhaps, that such a state of things cannot be fundamentally wrong, since it is, in fact, the ancient constitution of the country ; the constitution under which we have prospered for centuries. It may be said that the mutual independence of the two houses is so thoroughly of the essence of our institutions, that there is only one instance on record, in which it has been broken in upon, and the submission of the lords avowedly forced by a creation of peers.'

'The answer is, that since the time that parliamentary, instead of regal, government became the real constitution of this country, no such

mutual independence has existed. The lords have in fact been independent of the commons, because the commons have been dependent on the lords. The influence of the lords in elections was so preponderating, that they were virtually represented in the commons: and the majority of the commons expressed the opinions not of the body of the people, but of an assembly partly elected by the people, or rather by a small portion of the people, and partly nominated by the peers. On some insulated points, such as the granting offices in feversion, and catholic relief, the two houses differed, but as to the general management of affairs, they coincided. The spectacle of one party omnipotent in one house, and its opponents in the other, was never exhibited. Such a state of things would have been incompatible with good government, while it lasted, and if permanent, with any government whatever. The theory of three estates, each acting independently and mutually controlling one another, or in Sir W. Blackstone's own words, "Two houses naturally drawing in two directions of opposite interest, and the prerogative in another still different from both," is perhaps a good subject for school boys' themes, but is totally inapplicable to the affairs of a great nation.—*Ib.* pp. 49–60.

'But how is this change to be effected? Of course, in the first instance, by the use of that safety valve afforded by the constitution—the creation of peers. It may be said, that such a creation, though it might relieve our present difficulties, would create a permanent evil by the large increase of the titled aristocracy. *The obvious remedy is, that the new peers should be created only for life.* It is strange that a peerage, not of inheritance, should be considered an anomaly, or even a novelty. Without recurring to the cases of the Scotch and Irish peers, or to the English spiritual peers, who sit only while bishops, we may recall to the reader's recollection the case of the Irish bishops, who sit only in every sixth session. Express creations of English peerages for life occur in our earlier history; and it appears that they may be legally created for even a shorter period. When a peerage is created by writ, it is said, indeed, to confer, by law, an estate of inheritance; but when it is created in the usual mode by patent, the duration of the grantee's interest depends not on any general rule of law, but simply on the words of the grant. If a peerage be granted to a man and his heirs, it will descend to any of his relatives male or female, lineal or collateral. If it be granted, like the Devon earldom, to him and his heirs male, it will embrace all his relatives, lineal or collateral, of male descent. If it be given to him and the heirs of his body, it will vest in any of his posterity, male or female; or if it be given in what is now the more usual form, to him and the heirs male of his body, it will descend only to his male posterity. If it be given to him indefinitely, without any mention of his heirs, it will cease with his life. And it has been laid down in the House of Lords, and by the highest legal authority, that if a peerage be granted to a man during the life of another person, it will cease on the death of that other person.—*Ib.* p. 63.

'It may be objected, however, that if the example of a large creation is once set, as each successive ministry will create its own majority, we

shall in no long time be encumbered by an assembly too numerous for useful deliberation. We see no reason for that fear. The example once set, will not be followed, for it will not again be necessary.—*Ib.* p. 65.

The answer to the objection to a creation of peers is not complete. There is a better answer than this; which is, that the operation now demanded, is for undoing a previous operation of the Tories.. Were not they making peers during all their palmy days, by way of supporting themselves in their places when bad times should come? It would be an odd argument which should object to the compensation directed by a court of justice, that if this was allowed, there would be no end of men's taking money from one another. That there is reason for its being done twice, is the very thing that is to hinder its being done thrice.

The point of curiosity about all these demonstrations is, where they come from. There are remarkable negative signs. Not a word of the ballot; nothing about short parliaments; scarcely a whisper upon the corn laws; considerable approbation of the sect established at the Revolution under the title of Church of England; nothing, in short, much newer than the fashion of 1688. It is plain enough who these are; they are the Old Whig "Heavies" coming into line. Men not easily moved, and just now under a cloud for having caused all the mischief by the refusal to bestir themselves; nevertheless good men at their weapons, as John Bunyan would say, when they can be made to march. They are for none of the new fal-lals, but stick to the pigtails and *bottes fortes*, and probably enough some Ramillies periwigs among the heads of departments; but for all that, they "weel bobbit" once, and may "bob it again." So no nonsense, gentlemen of the young regiments, but send and ask them to your mess and make much of them, for you may all be in a mess of another kind together, before you are a great deal older.

The Tories made light of the more nimble Radicals, who were to be found always in the forefront, which Homer calls *ἐν προμάχοισι μάχεσθαι*; and now they have fallen in upon the *ἔρκος πολέμοιο*, the 'bulwark of war,' made up of the stout Whig proprietors and their heavy-handed retainers. If the Whig leaders would go for the Bailot and Triennial Parliaments, they would walk over the course; and as it is, it is quite time to arrange for following up success. And here the policy is the same as on talking of 'republics.' No sabring at a rag, a voice, a name, in the form of the king's prerogative; but break up and disperse the masses which alone make the symbol an object of alarm. Pass a razor through the elf-locks that Tories breed in;

cut away the harbour,—saving the presence,—*nits and all*. This is what wanted doing the last time; and people will perhaps be wiser now. The court story is understood to be, that the king is to be advised to dissolve the parliament *toties quoties* till he gets one to support the present ministers. They have counselled or adopted one act which has no parallel for grossness since Louis XIV presented himself with his boots and horse-whip to a parliament; and they had better wait till they see how this turns out, before they think of another. The immediate tendency of such advice would be, to raise the question whether the taker could be sane. There is probably no possible act, a king might not find somebody to advise him to; but the fact of his having found advice, will not hinder mankind from putting their own constructions on the taking it. Another version says, the thing is to be tried twice, and then *the dragoons*. If so, we shall be in a way of showing our children something of the *prælium equestre*. The dissolution of parliament has placed the first part of the question in the people's hands; and for all the other dissolutions that may intervene before the dissolution of the monarchy, sufficient for the day will be the evil thereof. The point to be settled *now* is, whether an exercise of arbitrary and despotic power such as is not usual among the carcase-butchers of the continent, is to pass without resistance on the ground of nobody being responsible.

ADDITIONS TO THE ARTICLE ON THE
'ENHARMONIC ORGAN.'

*In page 64, line 11, after near insert *, and at the bottom the following Note.*

* An observation which has presented itself on this point, is that in the remoter discords such as may occur in *chromatizing*, (as for instance in sounding together the Minor Sixth and Major Seventh, or by analogy the Major Third and Minor Second), the form of the Dissonance is still determined by what will make the simplest ratio, and thus (as in the instance given) may run counter to the indication apparently derivable from the colour of the keys. It will therefore be for *chromatizers* to mark upon their music the form they want, and it is probable that a cultivated ear will always be competent to the decision, without recourse to ratios.

After the paragraph ending in line 41 with the word intolerable, insert the following separate paragraph.

If an individual had a number of pen-knives or other cutting instruments, some of which cut well at the heel, and some at the point, and some in intermediate places, it would be an odd mistake which should lead him to imagine he had an advantage over another who had his pen-knives sharp all over. Yet this seems to be the mistake of those who boast of the treasure they possess in the different tempered keys.

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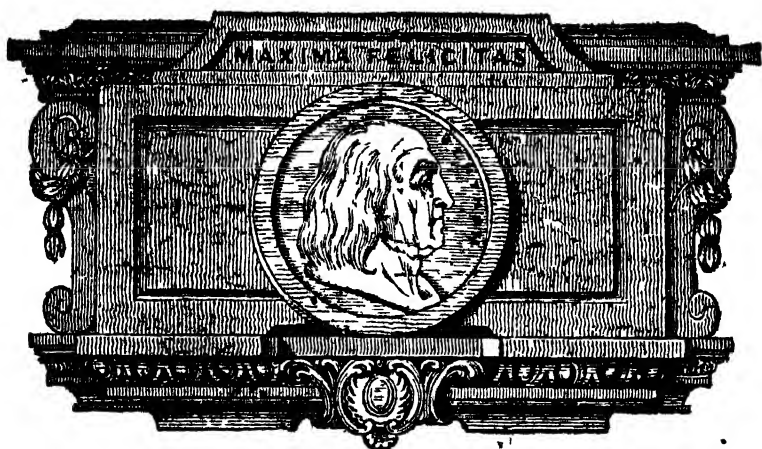
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THE
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FOR APRIL 1, 1835.

ART. I.—*The Princess; or the Beguine.* By Lady Morgan, Author of "O'Donnell," &c.—London; Bentley. 3 vols. 8vo. 1835.

LADY Morgan took such an unfair advantage of the masculine portion of the public, in chusing the moment when European freedom might say with the apostle 'no man stood by me,' to brave the alliance of despots abroad and monopolize the honours of the Quarterly at home,—that she cannot wonder at any quantity of spleen she may have since encountered. As the time however has come, when the accused before the ancient Nero frowns over Rome in marble from the loftiest of its palaces; so a shorter lapse of years has turned the tables on the modern autocrats in politics and in literature, and reversed the opinion of the world upon the merits of the opposing parties.

VOL. XXII.—*Westminster Review.*

A novel or fictitious history, in these serious times, may be considered as an instrument on which the master has the right of discoursing any music, which may tend to excite the passions and create the feelings his purpose may select. The object of the earliest novelists appears to have been to amuse ; for which the world's freshness afforded them ample scope. The next, or early moderns, seem to have fixed on the joys and pains of successful and unsuccessful love ; on which they so o'erwrought, as in some sort to bring fictitious history under the ban of the serious and the self-denying. The serious themselves, however, could not withstand the temptation of applying the seductive vehicle to their own purposes ; and the authoress of '*Cœlebs*,' in the intervals between the assaults of her two enemies '*sin and bile*,' may perhaps be fairly stated as having opened the gates, never to be closed again, which let loose the novel on the whole range of human contests and pursuits.

The powerful and great have never wanted story-tellers to be pathetic on their magnanimity when they either abstain from evil, or consent to do any good like ordinary men. A kick from their loftiness is to be held most gracious ; and the rudest insult is to be set store by, as if their Highnesses rheum were amber. It is in human nature ; and as long as the temptation is there, there is no help for it. But this only makes the obligation greater, to such as will put forward and adorn the working of those homely affections and familiar interests, which crush the pageantry of power whenever the two are brought into fair collision. A people may be kicked for a season, and their mouth-pieces, if they have no better, call it gracious. But the hope of mankind is in the kick too much ; and when that comes, it needs no curious research in history to tell the issue.

One of these outbreaks, the Belgian one, forms a principal part of the groundwork of the present story. It is true that the boiling over of the Belgian pot, was in point of time the consequence of the ebullition of the Gallic ; but the boiling materials were there, or the phenomenon could not have taken place. Many lights are thrown by the novelist's true fiction or feigned truth on the reasons why the people beat kings, when kings give the last blow too many to the people.

The following is from an English aristocrat's collection of revolutionary reminiscences in that rather dull smuggling town Ostend.—

' Meantime, I read and saunter away my time, in your own *poco-curante* way ; and have already made an acquaintance with some of the natives that rather interests me in the Belgian Revolution : hitherto, I confess, the object of my indifference, at the least. I had

been more than disgusted by its brawling and unsatisfactory details of inconclusive negotiations; having watched its progress and protocols, through the spectacles of the Holy Alliance, and under some certain social prejudices, for which, perhaps, our London coteries are answerable.

'One of my approaches to the ramparts (where I actually live) is by a rope-walk, where an old *maître fabriquant de cordage* presents such a perfect figure of one of Teniers' *drôles*, that I bought some pencils and drawing-card for the purpose of sketching him, (the first time I have taken up a pencil, by the bye, for eight years.) He saw what I was about, and lest he should be offended, I scratched in a bit of a ruined building, and asked him the name of the place. He looked at it, and, sighed. "Ah, Seigneur Dieu!" he observed in excellent French, 'there is nothing now in this town worth making a picture of—it is a ruin. Some thirty years ago, there were still some fine things to be seen in it; but the *blocus continental* of the Emperor Napoleon gave the *coup de grace* to the prosperity of Ostend; and then, to make bad worse, we were given over to the king of the Dutch; and it was his cursed Dutch gunpowder that exploded in 1826, and completed our misfortunes. The government magazine, to be sure, went up along with it; that was some comfort; but the town was nearly reduced to ruins. The earthquake was felt at Brussels. The explosion took its course along the shore. The *Haze-gras*, the finest *place* in Flapders, became a heap of rubbish; and had not Notre Dame d'Ostende watched over us, our ancient city would have been the tomb of its inhabitants.'

"'Apparemment,' I said, as we walked on together towards the ramparts, '*monsieur n'est pas Orangiste?*'

"'Comment, monsieur!' he replied, '*je suis Belge, moi,—Saquer*!*'

"At that moment we overtook a young man, with death stamped on his pale but handsome face. He was leaning on the arm of a young girl dressed in the Flemish costume, and was supported by a crutch. He wore a blue linen blouse, with red worsted epaulettes; and his little casquet was ornamented with the Belgian tri-coloured cockade (red, yellow, and black), worn with something of a military smartness.

"'It is one of our *Blessés*,' said the old man, taking off his cap, and saluting him respectfully. *Bonjour, mon brave! comment va la santé?*

"'Pas mal,' said the young man, with a faint smile, as he seated himself on a stone bench.

"The girl opened a little basket, presented him some biscuits and fruit, and laid a flask of wine and a horn cup beside him. After a short dialogue in Flemish, animated by a smile which could not be mistaken, she kissed her hand and turned away. I took my place beside the poor invalid, whose appearance affected me. I made some idle remarks on the sea air, and its salubrity to an invalid.

* 'The Flemish pronunciation of *sacre*.'

" ' *C'est un de nos Blessés,*' repeated the old man, folding his arms upon his breast, and looking with pride on the young sufferer. ' He is a hero of the 26th of September, our great and glorious revolution.'

" ' Did the revolution of Brussels reach to Ostend ?' I asked.

" ' Reach it !' repeated the old man indignantly : '*par exemple !* we did not wait for that ; we met it more than half-way—*n'est-ce pas, mon brave ?*'

" ' *Je crois bien !*' said the *Blessé*, either restored by the wine he had supped, or kindling at recollections which had their influence over his life—nay, his death ! for his hectic cheek and flashing eye spoke of rapid dissolution.

" ' He can tell you something of our revolution, sir,' said the old man. ' You English gentlemen believe nothing, know nothing about us. I have talked to many of them on the ramparts, and they were all alike ignorant on the subject. *Eh, mon Dieu !* that poor lad there, who was *mitraillé* by the Dutch, was the first to plant the Belgian flag on our town. He can tell you better than I, whether we had a taste of the revolution of Brussels, or no.'

" ' I felt that I had shocked the self-love of the patriotism of Ostend, and hastened to acknowledge my ignorance and to desire information. The young patriot seemed flattered, and proud of the reference. After a little hesitation, a clearing of the voice, and a summing up of spirits, he almost burst forth,

" ' The cry of liberty, monsieur, had resounded through Belgium. It found no tardy echo in Flanders ; for if *nous autres Flamands* are less explosive than the brave *Liegeois*, we were not less sensible of our grievances. Our hatred of the Dutch was of long date. We had already had our political revolts, and blood had been spilt ; the people of Ostend and its *arrondissements* having been irritated by the conduct of the Dutch *commandant de place*.

" ' *Bien, monsieur ;* it was on the evening of the 26th of September, about six o'clock, (I ought to remember it, Monsieur Ernest, for I had come to make preparations for my marriage,) that the firing from Bruges was heard at Ostend. The people rose instantly ; ill-armed indeed, but with the Belgian colours at their head, and with the brave *Jean de Bataille*, an ex-officer of marine, to lead them. We directed our steps to the *Grande Place*, and the guard was disarmed in a moment. The troops flew to retake the post ; a *feu de peloton* killed nine of our bourgeois ; and I had the honour to receive wounds, of which I am yet not quite cured !.

" ' On the 27th, the troops of Bruges retreated on Ostend ; and on the 28th, the popular movement recommenced, with more violence than ever. It was then that the Belgian soldiers separated from the Dutch, and joined the bourgeois. On the 30th, the troops capitulated ; and surrendering the town to the Belgian military and the town-folk, sailed on the same day for Flushing.

" ' Our example,' continued the young *Blessé*, ' was not followed, but met by the towns of the neighbourhood. Each made its own little revolution. Furnes, Nieuport, Ypres, Dixmude, Courtrai, and

the major part of the communes of the *plat pays*, had scarcely more than to disarm the *maréchaussée*; and by the 3rd of October, in the space of eight days, the Belgian flag floated on the belfries of all our villages, to the very verge of Flanders. *C'était une belle révolution que la nôtre!*

"Nothing could be more animating than the countenance of the old man during this detail; and his '*Voilà!*' '*Pardie!*' '*Je le crois bien!*' '*Voyez donc, monsieur!*' formed an amusing running commentary upon the text. We were still at our '*belle révolution*' when the pretty *fiancée* returned, for she was evidently the bride of the interrupted espousals. She reproved the *Blessé* for having talked too much, and drew him away; but not before I had apologized for a curiosity which might prove injurious to him, and obtained and taken down his address.—The young man slowly crawled away, supported by his mistress.

"The old rope-maker sighed, as he followed them, with eyes full of compassion.

" 'She will soon be spared this trouble, *pauvre petite!*' he said. 'Every time I see him, *Jean* is a step nearer to his grave!'

" 'She is of course his mistress?' I said.

" 'She was his *fiancée*, monsieur; and was to have been married, when the revolution broke out. *Jean* was a poor lad, but of respectable parentage, and one of the best workmen in the hat-manufactory at Thourout. *Marie* is the daughter of a *garde-champêtre*. His cottage stands in the forest of Wynendale. She was sent here to learn to make lace; and everything was settled for the nuptials, when the 26th of September arrived. He has told you the rest, except that her father is an Orangeist, and will not now hear of their union.'

"It is astonishing how much this little romance has interested me. I intend to look to these poor people, and try whether better medical advice cannot be procured to save the young patriot from his impending fate.

"That I should become interested in the Belgian revolution, and at Ostend!—a partisan, too, on the wrong side! But the animated narrative of the unfortunate *Jean*, his youthful mistress, and her Orange father, have worked on my imagination; and this domestic episode has really excited a feeling concerning the political drama itself, not quite consonant with my habitual views of the subject. It is strange how a phrase—a word giving a tint, a colour, to events—operates this species of enchantment on the coolest auditors. The forest of Wynendale! Ypres, Courtrai, names associated with the glorious wars of our own revolution. Even the '*nous autres Flamands*' of honest *Jean* identifying the speaker with a national sentiment, wins one for a moment to an affection for his cause, and a belief in the possible permanency of its success, at variance with all preconceived opinion.

"Modern story makes but little part of our school and university education; and though one reads afterwards to a particular point, still there are few Englishmen sufficiently acquainted with the history

of these countries, to feel their enthusiasm kindle at aught that concerns the present destinies of its people. Sometimes indeed, when one has 'to rise' upon a question of Lord Palmerston's protocols, or the treaty of 1815, and has to get up a hit for the debate, one sends to Murray for the newest and shortest book on the matter; but, the purpose served, the facts are forgotten.

"Since my arrival here I have been reading an old black-letter chronicle of the Low Countries, called *La Chronique de Nangis*, which I picked up here, and which, as well as Meyer's history of Flanders, has all the interest of a romance. To that circumstance, probably, the story of the young *Blessé* is indebted for a portion of the seduction it has exercised on me. You must first warm to a people by their antecedents, before you can interest yourself for their actual position."

"P. S.—The packet is in. A letter from Harris's head clerk incloses me the sum I wrote for; but he waits the return of his *chef* from Mottram Hall, to proceed with the rest of my commission, instead of sending me my letter of credit at once. This is pleasant; for I have already expended a good part of the money he has sent me. Was there ever such an accumulation of bores! The *exigante* Princess, moreover, has carried off all the post-horses left by the travelling hordes of English; so I start by the *treckschuyt* at two o'clock, where I shall be huddled in with other specimens of the animal creation, male and female, as in Noah's ark. But, at this moment, I really am so steeped in 'tender sympathies' for others, that my own annoyances sit lightly on me.

"I went an hour ago to see my poor *Blessé*. I found his humble dwelling in the upper story of an old edifice which probably escaped the siege by Spinola; for nothing was ever so antique or dilapidated.

"The chamber, No. 3, *au second*, was easily found: no door was closed against the intruder. As I approached, a figure in black, who appeared just to have left the apartment, drew up in the narrow passage to let me pass. I think it was a female; but the picture within occupied all my attention. On a sort of truckle bed lay the emaciated form of poor Jean. The few hours which had elapsed since we parted had made great ravages, and he was in the very agony of death, though scarcely paler than I had seen him the day before. His little cap with its tri-coloured cockade was placed beside him; and a priest was praying before a temporary altar at the head of the bed. Poor *Marie*, half prostrate on the floor, knelt, with her face buried in the counterpane; while the bluff old rope-maker knelt too, and was in the act of prayer. He caught a glimpse, however, of my figure as I receded from the door, unwilling to disturb the solemn scene; and he followed me out. I had my purse in my hand; and as if in reply to my presumed intention, he said,

"'You are very kind, monsieur; but a good religious woman, *une bonne et charitable dévote*, has already provided for the wants of the invalid. But poor Jean has now no more wants!'

"And *Marie*?' I said;

“ ‘ Marie has her parents and her own industry to support her ; and though from a compatriot and a *bonne Belge* there is no degradation in the *Blessés* receiving assistance, yet from a stranger and the native of another land it is different. I thank you, however, in behalf of my countryman for your kindly intention—*vous êtes un brave monsieur !* ’—and he shook my hand rather roughly.

“ Mine host of the hotel has come for my English letters, to renew his apologies for having taken me for a suspicious character, and to announce the departure of the *treckschuyt*.

“ Let me hear from you at Brussels ; and so farewell.” “ F. M.”

vol. i. pp. 271—283.

If the laborious classes find their interests in popular freedom, the classes next above them in power and intelligence are not deficient in motives for aiding them in the pursuit.

‘—the swampy banks of the canal near Ostend had been gradually exchanged for scenes of more broken and woody outline ; the country rising into highly cultivated ridges on either side. As Bruges was approached, rural prosperity and beauty became more striking. Snug cottages and substantial farmhouses, deeply coloured, as in a Dutch picture, peeped through trees, and presented images of comfort and ease which, throughout even this, the flattest part of Belgium, amply compensate for the absence of the more striking features of mountain countries. On some spots the hay was still making, and sent forth its perfume on the air ; and wherever man appeared, his fresh colour and decent garb betokened the full suppli-ance of the first wants of life.

‘ A little further on, the *treckschuyt* drew up for a moment near a garden gate of an extremely neat *campagne*, and took in two gentlemen. They swept the decks with their hats ; and their low bows were returned by salutes from the Flemish party in the boat with equal courtesy. One of the strangers took his place with his face turned towards the town, and his hat drawn down to shelter him from the oblique rays of the sun : he was of the middle age, Flemish-built, full and comely. His companion was a young man of lively and interesting appearance, and might have belonged to any country. Their conversation was carried on in French, which, by its context, revealed that they were evidently inhabitants of Bruges or its neighbourhood, and were returning at that early hour from a dinner-party, at the villa of a friend, to the town.

‘ There was something in all this that recalled the social habits and rational hours of the middle classes of England of *older* times, almost refreshing to one *blasé* by the enfeebling and corrupt usages of his own class and day ; and Sir Frederick, after an effort in his own shyness and reserve, was tempted to seek an opening to intercourse by asking the period at which the canal from Bruges to Ostend had been cut. The two Flemish gentlemen turned round, and, bowing as Flemings only bow, seemed eager to reply.

“ It was constructed,” said the elder of the two, “ in 1613, and is a little monument of what even a transient peace of twelve years can

effect,—a pause during that sanguinary period of European history, in the seventeenth century. You remember, doubtless, sir, the truce so long desired between Holland, Spain, England, and France?"

'Sir Frederick nodded an equivocal assent, and endeavoured to "rub up" his recent readings.

"Yes," said the young man; "it was a *trêve de Dieu*, to give the despots of Europe time to breathe, and think of new modes of oppression and violence. A pretty set they were! Your James the First, monsieur, false to his allies, like a true Stuart! Louis the Thirteenth, or rather his minister Richelieu; Maurice of Nassau, who was mystifying the Dutch, and planning the murder of that glorious patriot Olden Berneveldt; and Philip the Third, of Spain, the worthy successor of the monster Philip the Second, who then ruled over the blood-steeped and smoking ruins of Flanders and Brabant, in the person of his viceroys, the Archdukes (as they were called) Albert and Isabella;—glorious times those!" A murmur of assent followed this speech.

"It was a great epoch for us," said the elder gentleman. "We were handed over, to be sure, from bloody Spain to leaden Austria; but Albert and Isabella were like the princes of fairy tales, '*de bons princes*;' so we began to labour in this pause of peace in repairing the ravages of war: agriculture revived, roads were opened, canals were constructed; and though our ancient city of Bruges had then no court, and had lost the early splendour of her commerce, still the minor operations of trade renewed their activity; and the reviving prosperity of the country is yet visible in many monuments of utility and civilization."

"*Eh bien, monsieur*," said the younger patriot, "I trust the five great powers of the present day will let us breathe a little now, and give us time to recover. Nations are always for peace when left to themselves; but kings, and those who minister to kings, seldom leave them the choice."

'Sir Frederick, interested in the conversation, observed, "I believe England concurs fully in the wish for peace. All parties with us agree, that it is the interest of Europe to maintain it."

"To be sure," observed the young and animated Fleming. "Look around you, sir; look at those lovely orchards and beautiful gardens; they are the work of persevering Flemish industry, raised on artificial soils! It would be a pity to see the labour of years ravaged by war, *n'est-ce pas, monsieur*? Yet, sooner than forfeit our national independence, which we have so hardly conquered, we are ready to fight the battle over again to-morrow."

"*Jour de Dieu!*" said another Flemish gentleman, "you are quite right! If we are to be free, we must be prepared for the cost; for right is too often with the strongest. *Le bon Dieu est toujours pour les gros bataillons*, as Spain and Austria found in our unfortunate country, in other times."

'The setting sun now fell in showers of gold on the Gothic towers of Bruges, and were reflected in bright points from their golden fanes and moulded casements.

"What a splendid picture!" said Sir Frederick.

"Yes," said the elder of the two last arrivals; "it is well calculated to make an impression on those who are not, like myself, deprived of the organs of vision."

Sir Frederick started; and looking under the broad hat of the last speaker, perceived that he was indeed deprived of sight.

"That high belfry," continued the blind gentleman, "is the *clocher de Notre Dame de Bruges*, one of the loftiest in Flanders. We see it at sea, and it directs the vessels into the port of Ostend."

"The view is indeed splendid," said Sir Frederick Mottram; "but one always fears that the illusion will be dissipated, on entering these ancient towns. It generally is so in Italy, where the towns are perfect disappointments."

"Those of Flanders are the reverse," said the young Brugeois: "the domestic architecture of the middle ages in the Netherlands is the most perfect and picturesque of Europe. Flanders was the cradle of the arts; but though our national rulers, our *Comtes Grands Forestiers* and Dukes of Burgundy, were magnificent patrons, it was the merchants and tradesmen of Bruges who raised those beautiful edifices which, if you have any taste for such pursuits, you will be delighted to examine."

"The arts are almost the only subject that interests me very much," said Sir Frederick, with some emphasis.

"*Monsieur est-il artiste de profession?*" said the black-hooded lady, putting the card on which she had been drawing into her book.

"Only an amateur, madam," he replied, a little hurt at being taken for anything professional.

"*Eh bien,*" she continued; "look before you! There is one of those originals from which our Flemish painters might have taken their subject. There is the *chiaro oscuro* of Hobbima, in which he equals Ruysdael. There are his deep masses; and there is his setting sun, in which he rivalled Claude. Those trees have his feathery but firm touch; and the whole distribution of light and shade is his! Our Flemish painters all studied in the great school of Nature, and Hobbima most of all."

"*Madame a raison!*" said the young Brugeois. "It is to that circumstance our school owes its immortal freshness, . . ."

"The absence of all mannerism," said the lady, "and the truth that belongs to all ages."

"To what, then," said Sir Frederick, "do you attribute the decline of your school?"

"To war, sir," replied the young man: "the restless wars of France, Austria, and Prussia stopped their progress in the seventeenth and eighteenth century. For thirty years, music was thus stopped in Germany; war rendered music stationary in France, till Rossini and the new Italian school were permitted to revive the art: nor would Belgium have been compelled to borrow from other countries that divine art in which she once herself excelled, had she not been always involved in contentions in which she had no interest."

"But you have had fifteen years of peace in Belgium," said Sir Frederick.

"Fifteen years of discontent and brooding vengeance," replied the young man, with fire. "The arts must have encouragement; genius must have its recompense. Genius, *qui marche à l'égal des souverains*, must still eat. But under the Dutch government, *figurez-vous!* William considers the arts merely as an inferior branch of industry. Painting and music!—bah! the Arcadia of William was a manufactory, and his Magnus Apollo *un bon gros fabricant*; the clacking of looms was his music, and the workshops of Ghent his Olympus."

"There was a general laugh among the auditors, among whom there was not, it appeared, a single Orangeist or partisan of the Nassaus.

"Yes," said the blind gentleman, "we Flemish are all born artists, I believe, if circumstances favoured our talents. When Guicciardini visited us in 1567, he observed, (I beg pardon for quoting our own translation,) '*Les Belges sont les maîtres de la musique, qu'ils ont fait renaître, et qu'ils ont porté à un grand point de perfection. Ils naissent avec un génie heureux pour la cultiver,*'"

"Without that *génie*," said Sir Frederick, insensibly interested in the discussion, "a nation may buy artists, as England does, but she never will be musical. I am ashamed to say, that, until now, I was ignorant that the Belgians were a musical people."

"*Comment, monsieur!*" said the lady, brusquely. "Do you not know that the founder of the present musical system was a Belgian, who added the seventh note, and divided the scale into octaves—Henri de Put? And then there was our Roland Lasso, of Mons: the Italians call him *Orlando di Lasso*. Then there was *Tinturier de Nivelles*; besides Deprès of Antwerp, who invented counterpoint, in the sixteenth century. And, in modern times, have we not Méhul, Berriot, and the divine Grétry of Liège?"

"The Flemish lady then whispered something to the harpist, and she struck up "*O Richard, O mon roi.*"

"Bravo! bravo!" was echoed on every side.

"*La belle musique!*" said the blind gentleman, humming the air to the harp.

"*Oui, oui,*" said the younger speaker, "You knew Grétry, Monsieur Rodenbach; and the amateurs of the day preferred him to every one. *Mais nous autres jeunes gens*, we prefer the *Brabançonne*. *Chantez-la, ma bonne amie.*"

The harpist struck a few chords, and then sang as follows:—

Qui l'aurait cru! de l'arbitraire
 Consacrant les affreux projets,
 Sur nous de l'airain militaire
 Un prince a lancé les boulets.
 C'en est fait! Oui, Belges, tout change:
 Avec Nassau plus d'indigne traité!
 La mitraille a brisé l'Orange
 Sur l'arbre de la liberté.

Et vous, objets de nobles larmes !
 Braves, morts au feu des canon
 Avant que la patrie en armes
 Ait pu connaître, au moins, vos noms !
 Sous l'humble terre où l'on vous range,
 Dormez, martyrs ! bataillon indompté
 Dormez, en paix, loin de l'Orange,
 Sous l'arbre de la liberté !

‘The enthusiasm produced by this national hymn was a proof how far constitutional phlegm may yield to the excitement of circumstances. In the plaudits which followed, there was more of the mercurial temperament of the French, than of the supposed sobriety of the Flemish character.

‘It was remarkable that, during the performance, the Italian exile sat with his face buried in his hands, and alone gave no outward token of sympathy with the cause. *He* was haply comparing the revolution of Belgium with the fruitless struggles for Italian liberty of which he was a victim. He had a brother in the dungeons of St. Angelo, and he was himself dead in law,—in poverty and in banishment. For Belgium, circumstance had done much, while every chance had turned against his own country. The blood of many of the best sons of Italy had stained her soil; while others, dispersed and lonely, brooded, like himself, beneath the chilly skies of the north, over the disappointment of their patriot hopes. How then could he sympathize where all was triumph, activity, and hope, and success !

‘The little bark was now passing through the *Franc de Bruges*, whose very inch of ground recalled the unsubdued spirit of the Flemings of the middle ages

“It was here,” said the young Belgian, “that the tree of liberty was planted and nourished in the fourteenth century. When the Comtes de Flandres endeavoured to extend an unmixed despotism over the people, the cities, to strengthen themselves, endeavoured to obtain a mastery over the surrounding country but the population of the *Franc de Bruges* threw off the yoke of both, and obtained for it great privileges: it was ruled by its own magistrates, according to its own laws, and took a place among the *Etats de Flandres* as an independent power.

“Let us hope,” said another passenger, “that the spirit of the ancient times is not extinct.”

‘It was now very evident that the Flemings were desirous of impressing their English fellow-travellers with a conviction of the perfect success of their revolution and its consequences; and Sir Frederick Mottram was slowly yielding himself to a cause for which he had hitherto felt no interest, through the medium of his imagination. The arts were mixing themselves with his political opinions; Hobbima, and Grétry, and the *Brabançonne*, presented a neutral ground, where Fancy, like Archimedes, might fix her levers, to move the world of prejudice in which he had hitherto lived. He was beginning to feel for Belgium, and feeling is a powerful step to conviction.—vol. i. pp. 300—312.

The course of the story is full of illustrations of the small chance the petty sentiment of personal attachment to sovereigns, which under the name of loyalty means little more than an interest in existing wrongs, has of maintaining its ground against the substantial feelings of a people, when once directed by a certain degree of intelligence and information.

"When I was at Brussels, in the year Twenty-nine, it appeared to me that the Dutch King was popular."

"With those with whom you lived, monsieur, he probably was so. In all communities there are castes whose interests are bound up with those of the ruling power, be that power what it may; and it has been generally observed, that the aggregate of English travellers are drawn, by a sort of natural affinity, towards them. Brussels, sir, has its Faubourg St. Germain, as well as Paris."

"I judge rather from my own observation," said Sir Frederick dryly. "William of Nassau was at least calculated to be popular by his unceremonious and accessible manners. His exterior was that of a *père de famille*; and he moved through your streets like a private gentleman. In exterior, at least, he was the *beau idéal* of a citizen king."

"Nevertheless," said the gentleman, "he was an absolute king, after the most approved model of the Holy Alliance. Affecting to be his own minister, he set all the forms of constitutional government at naught. He made his will the sole law; and that will was dictated by the local prejudices and narrow views of religious bigotry. Besides, he received Belgium as a dependency on Holland, as an increase of its territory; and he has governed exclusively in the Dutch interest. He has violated our consciences, enslaved our education, silenced the press, corrupted the law, imposed arbitrary and unequal taxes, and loaded us with debt. He has imposed his language on our tribunals; he has promoted Dutchmen to all places of trust and emolument; and, in one word, has made us aliens in our own cities, and set a mark of reprobation upon every thing that is Belgian. How then could he be popular?"

"We, in England, have been accustomed to regard these accusations," said Sir Frederick coldly, "as enormously exaggerated."

"That is a question of fact; and facts will speak for themselves," said the Belgian gentleman, with equal pertinacity of manner. "But as you have taken the trouble to come amongst us, and do us the honour to say you are interested in our cause, you will, I trust, inquire and judge for yourself. All we ask of strangers is to throw off their own prejudices, and not to adopt those of any fraction, or category, which is not the nation. Something, too, of our story should be known. We have always been a restless people. Through all our records, it is obvious that a sentiment of public justice is deep-rooted in our hearts; and that there is nothing so galling to the Belgian spirit as *le joug de l'étranger*. Centuries of suffering have not hardened us to its bitterness; for so strong is our feeling of national independence, that it has sometimes degenerated even into municipal jealousy."

"You think, then, that there is no chance of restoration for the

House of Nassau?" asked Sir Frederick, interested by the warmth of the speaker.

"None whatever," was the firm and simultaneous reply of the two ardent Belgians. "From the moment when its expulsion was voted in our national congress, its fate was decided. Even that indeed was but a form: the family had already been expelled by public opinion."—vol. ii. pp. 9—11.

It is only fair to give something on the opposite side; and it is given accordingly.—

'Something more than half-way between Bruges and Ghent, a little chaise came toddling down a green lane, and drew up on the canal. A brisk young man bounded out of it, and took his place on board. He had a packet of papers, tied with red tape, under his arm. His toilet was more Parisian than Flemish; and a slight expression, not absolutely of self-importance, but an indescribable something in demeanour, stamped him obviously a provincial *employé*, a demi-official, or government man. A universal sweeping of the deck with hats, indicated that he was known to all; and he had a *poignée de main* from one, a punch in the side from another, and a tickle in the ribs from a third. His arrival seemed to animate the conversation: questions and answers flew about in quick succession: here and there, the more significant words were dropped in French; and by degrees that language was substituted for the Flemish, which had been hitherto preferably spoken. The conversation turned, as usual, on politics; and the young *Employé* soon found himself exposed to the good-humoured raileries and epigrams of his interlocutors.

'A remark by Sir Frederick, on the peculiar fertility of the scenes through which they were gliding, drew the attention of the *Employé*, who pointed out to his notice a farm to the left of the road, as an evidence of the fact; and he entered into a disquisition on the general prosperity of the people.

"No one," he said, "can give you better information on such subjects than myself: it is in my special department."

'He took off his hat, and bowed to the ground; and Sir Frederick returned his courtesy in kind. After this mutual introduction through the agency of their hats, he continued—

"From my official position, I can speak to the flourishing state of the fertile province of Flanders: let the other provinces answer for themselves. From this spot to Antwerp, through the Waesland (once a rank and splashy marsh,) it is the same scene of abundance, the Canaan of the Netherlands: and when people have wherewith to eat, drink, and make merry, they will surely be contented with the free order of things under which they thrive and enjoy; though particular interests, under temporary disadvantages, may lead a few discontented individuals to propagate feelings of dislike among those who have no cause to complain."

'This was a palpable hit, and was returned by the droll of the party, a fat, fair young man, the very type, in dress and figure, of "*mon petit*

Charles qui aime les plats sucrés," in the French farce of the "*Rendez-vous*."

"What is most miraculous in this state of prosperity, monsieur," observed *mon petit Charles*, addressing Sir Frederick, "is, that we are all starving in the midst of plenty."

"You must not cite yourself as an example," said the *Employé*; and the laugh was again with him.

"*Ma foi*," replied Charles, "I live upon my means; and it is not under the present regime that I grew fat. Though our soil be fertile, (which it is, in spite of all government, good or bad,) our manufactures and commerce are in ruin. The markets, open to us under the old regime, are now closed; our ports are inundated with British goods; and the manufacturing interests are sacrificed to the agricultural; while our looms are silent, and our trade at a stand."

"So much for the *matériel*," said a sturdy-looking cotton manufacturer, in whose firm the late King was supposed to have a large share; "and now for the *spirituel*. The country is governed by the priests; and there is not an *aubergiste* in all Flanders who will dare dress you to-morrow (being Friday) a mutton cutlet, or a *cuisse de volaille*, under penalty of excommunication. The black beetles are creeping back into our houses, and getting round our wives and daughters, just as in the old Spanish and Austrian times."

"Oh! as for the priests, I give them up, Monsieur Van B——, to your castigation," replied the government champion; "but remember, that their present influence is but a reaction on the intolerance and persecution of the late government; which forced the clergy into the ranks of political opposition, and, in making them partakers in our glorious revolution, bestowed upon them a well-merited popularity. The present government, moreover, is not answerable for the bigotry of our villages. Liberty of conscience (liberty the fullest for every possible religious opinion) is a fundamental condition of the Belgian constitution; and if the priests have power, it is the free gift of the people. The government do no more than administer a liberal dispensation in a liberal spirit."

"Liberal enough," reiterated Monsieur Van B——, shaking his fat sides; "for they leave us the liberty to beg or starve."

"Or even to attempt a counter-revolution," said the man of office, dryly; "or accept of missions from the Hague."

Here the conversation was interrupted for a moment by the ascent, from the cabin below deck, of a tall, dry, Spanish-looking person, buttoned up from head to foot in a grey great-coat, with a casquet on his head and a cigar between his teeth. He was evidently a person *d'importenza*, and was in fact a great landholder, the descendant of a Spanish family; as the Brussels merchant whispered Sir Frederick in broken English: interrupting for the first time his imperturbable silence. He was, he said, a great favourite with the hated Dutch minister Van Maanen; an ex-burgomestre of * * * *; and had held a handsome situation under the abdicated government.

"*Eh bien, monsieur*," said the Ghent manufacturer, addressing the

hidalgo, "you have come on deck to smell your orchards and hop grounds *en passant* : they are really teeming."

"At this moment the boat was passing an extensive and very elegant villa, with ornamented grounds.

"Yes, sir," he replied with Spanish gravity; "they are mine to-day, but whose to-morrow? Every month now, it seems, must have its revolution; and where there is no security, property has but few charms for its proprietor. Besides, when a population of four millions is compelled to support an army of more than a hundred thousand men, the hops and orchards teem in vain: they belong less to the nominal owners, than to the tax-gatherer."

"That comes of the vicious policy of the great European powers," muttered the Brussels merchant.

"But who exposes us to them? The European powers were with us when the House of Nassau occupied the throne," replied the *Ex-employé*. "We had then the Bourbons for friends, Prussia for a kinsman, and the sister of the Emperor of Russia for our future queen, living in our capital and walking in our streets."

"Ah! *parlez-moi de ça*," interrupted the Brussels wine-merchant, starting on his legs: "If we had no other reason for the Four Days, the getting rid of the Russians would be enough. What did we want with the barbarian Autocrat's sister? That Russian alliance was the *bête noire* of the Belgians. What liberty could be expected under a connexion, which made Belgium a kitchen-garden to Petersburg, and brought Brussels within sound of the despot's knout? But, thank God! we are '*quittes pour la peur*;' and there is no danger now of hearing a Greek priest celebrating mass in the palace of our hereditary prince!"

"*L'un portant l'autre*," said *mon petit Charles*, while all seemed to smile at the Russian terrors of the good Bruxellois; "I think a Greek priest saying mass in the chapel of the Princess of Orange, is not worse than a Roman priest governing the cabinet of the King of Belgium, and commanding a majority in the Chambers."

"And is that the case?" demanded Sir Frederick, amused by the discussion.

"To be sure it is, monsieur," said Monsieur Van B—. "In the rural districts the franchise is so low, that the electors are in the hands of the peasantry; who implicitly follow the directions of the priests, and return their nominees, to the exclusion of the informed and civilized part of the community. If things are to go on thus, we may expect a return to the awful times of the Philips and the Alvas; and our children may live to see the Inquisition restored in the Grand Sablon of Brussels, and the fires of an *Auto-da-fé* blazing on the site of the Recollets in the Rue du Soleil at Ghent."

"Then," said the Bruxellois, "they will see restored what was never suffered to exist in Belgium! for our priesthood never permitted either the one or the other to be established."

"I should suppose that, with a protestant king," observed Sir Frederick, "you have little to fear on that ground."

"*Cela ne fait rien, monsieur*," said Van B—; "the king may be a

protestant, and his ministers *esprits forts*; but we shall not the less be the most priest-ridden people of Europe. We are all good catholics, sir, and we respect our priests at the altar; but we know that Ghent never flourished, since the middle ages, as it has done under a protestant king. William of Nassau never let an enterprising merchant stand still for want of a round sum to forward his speculations."

"*Eh ! tant pis*," said the Bruxellois. "William was a sleeping partner in almost every concern that promised a profit; and both as prince and merchant, he clung to the false system of what is called encouraging trade: that is, giving unfair advantages to particular individuals, at the expense of the community; ruining the favoured, and forcing them into absurd speculations, by giving them a too facile command of capital."

"I cannot understand," said the Ex-burgomestre, "what the democrats of Brussels would have in their king. William was the very model of themselves, a pattern of economy; walking about the streets in a threadbare coat, and a weather-beaten umbrella under his arm*. Why, he sat for Monsieur Gobaud in an old pair of military boots under his royal robes, for want of a second pair to change them. Then he was always accessible; he talked and walked with his subjects, without form or etiquette. He listened to their complaints, entered into the details of grievances, and redressed them at once *de vive voix*, or by immediate interference with the ministers."

"Woe to the nation where such things can be done!" exclaimed the Bruxellois; "where the king's cabinet is turned into a monkish confessional! The substitution of one man's private judgment, for the determinations of responsible advisers, or for the established laws, smacks rather too strongly of the paternal despotism, as it is called, of Vienna. It is too clap-trap a virtue in royalty for less than a divine-righted autocrat; and shows either that William did not understand, or was not willing to perform his duty, in the spirit of a representative government."

"This *boutade* produced a momentary silence.

"All this talks well," said the Ex-burgomestre sulkily; "but the king you have chosen, monsieur, is not a bit the more popular for being a *roi constitutionnel*. There is no getting at him; or, if one does, *il ne cause pas, lui, comme l'autre—allez !*"

"The most popular of your princes," said Sir Frederick, smiling, "was Guillaume le Taciturne!"

"But who wants a talking king?" asked the Bruxellois petulantly. "We chose our king as an expediency; and, as yet, he has not disappointed us. *Il a du tact, le Roi.*"

* "On this point, the testimony of an English aristocrat is somewhat different. Speaking of William's reception at Ghent, the Duchess of Rutland, in her "*Tour*," observes—

"That popularity is scarcely worthy to be boasted of, the sum of which consists in not having been pelted with rotten eggs. The fact is, that the catholic city of Ghent was called upon to take the oaths to the protestant king of the Pays-Bas. The bishop of Ghent preached against the measure, and the consequence has been the dismissal of the bishop; but the city has not yet taken the required oath."—*A Tour through part of Belgium and the Rhenish Provinces*, 1822.

"*Eh ! Diantre ! oui—du tact !* But, with all his tact, his government has reduced the country to bankruptcy ; and the manufacturers of Ghent are about to enter into a resolution to close their looms, and to turn adrift some thousands of their unfortunate workmen.—*Son tact, pardie !*"

"That is a dangerous experiment," observed Sir Frederick. "The resistance thus raised against all government, by starving your dependants into riot, will fall heaviest on your own heads ; and the effects of combination will be ruinous to yourselves, long before it reaches the objects of your discontent and aversion."

'All further discussion was now cut off by the arrival of the *treckschuyt* in port ; which was crowded with porters, wheel-barrows and trucks, and was noisy with family meetings and friendly welcomes. The courtesy of the political partisans was superior to the influence of a difference in opinion. All offered their services to the English stranger. But his young official acquaintance, being the only *garçon* of the party, made that circumstance a claim for taking him under his especial guidance ; and they proceeded to the *Hôtel de la Poste*, entering the faubourg of the ancient capital of Flanders in the last dim twilight of a sultry summer's evening.'—vol. ii. pp. 32—43.

It may be explanatory of some parts of the above to observe, that Belgium under the Dutch government presented in one respect the precise converse of the state of Great Britain. The manufacturing interest robbed the agricultural, just as the agricultural here robs the manufacturing ; and the only way in either country to bring the contest to a permanent conclusion, will be to give the plundering parties a taste of submission to the opposite regime. Whenever the time of popular strength arrives, such retribution must be made with a moderate hand, but with a firm. A twenty years taxation, gradually introduced and gradually removed again, on home-grown corn, for the benefit of the manufacturer with whose goods it is to be bought abroad, commutable however for a tax on rent,—would probably be such a lesson, as would diminish the chances of any marauding interest again taking advantage of the corruption of the representation and the leanings of the arbitrary branch of the Government, to establish itself on the pillage of the residue of the community. The connexion between the evil of the injustice and the evils in the Government, appears to be thickening daily ; an excellent omen that probably more than one may come down together. In Belgium however, another element of bitterness was added, which is fortunately absent here. The manufacturers were for the most part distinguished by Protestantism, as well as by Dutch protection ; the oppressed agriculturists were of the ancient and Catholic church.

A letter from the English aristocrat under his process of conversion, recounts many circumstances which though old, have a new light shed on them by the analogies of later times.

"The formation of the kingdom of the Netherlands, I am now satisfied, was no better than a mere *coup d'état*; and whether such violences are nipped in the bud, or are allowed to drag on through years of impunity—whether they induce a prompt reaction, or await the maturity of a tardy revenge, the consequence is ultimately the same.

"That, however, which the Holy Alliance commenced in force, the Stadtholder was compelled to continue in cunning. The fusion of the two populations being a moral impossibility, nothing remained but to subordinate one of them to the other; to make one portion of the territory a kingdom, and the other a dependent province. But William was a Dutchman: accordingly, in framing a constitution, he adopted the fundamental law of Holland as his basis; and such considerations only were offered to the Belgian notables as were rendered indispensably necessary by the addition of the new provinces to the Dutch territory.

"The constitution, such as it was, was however necessarily presented to a Belgian assembly, to go through the form of acceptance*; and as the majority turned out to be against the government, the text of their vote was taken with a royal commentary, as sophistical as it was arbitrary, and their decision virtually set aside by an interpretation. Here, then, was a second *coup d'état*; and as things ill begun make themselves strong by ill, all possibility of equal and constitutional government was overthrown. Injustice accordingly followed in quick succession. The Dutch language was imposed on the Belgian tribunals, and the Belgian advocates stricken with an incapacity to pursue their business; while the people could not follow their own law proceedings.

"Then came the interference of the government with the public instruction; an interference which we at home regarded as enlightened and philosophical, but which I now see clearly was fanatical and sectarian—a counterpart of what has been attempted by the Orange party in Ireland. That it was good policy to break down the power of the Catholic priesthood, may be true; that a better education of the people was necessary than the priests would willingly concede, must be admitted: but the hasty and foolish manner in which these reforms were commenced, stamped William's government with a fatal character of violence and bigotry.

"Another consequence of a proconsular government of Belgium was the exclusion of the Belgians from place and honour†. The proportions of the Dutch and Belgian representatives to the respective populations,

* 'On this occasion 796 deputies voted against the constitution, 527 for it. It was, therefore, virtually rejected. But of the 796 opponents, 126 had, in voting, declared their opposition to have been founded on religious grounds; and about one sixth of the Belgian notables did not attend. William accordingly declaring the motived votes to be in reality affirmative, and the absentees to have given a *silent approval*, pronounced by proclamation the constitution to have been accepted.'

† 'There were 2377 Dutch officers in the military service, while 200 only were Belgians. To make this injustice more crying, it was arranged that in the colonies, where the service was fatal and the civil influence of the soldier nothing, the proportions should be directly reversed.'

were stamped with a similar inequality; and the fiscal and financial arrangements uniformly showed a consequent leaning to Dutch interests. The trial by jury was also arbitrarily abolished, to make way for a criminal procedure, which was a simple return to the ancient code of Holland. If, then, there was no one especial act to compare with the royal ordonnances of Charles the Tenth, there were fifteen years of galling tyranny, subjecting four millions of subjects to the sway of two; and that minority unsupported by superior instruction, and undignified by the *prestiges* of a military occupation.

"It has been said, that the physical condition of Belgium being prosperous, the people were without excuse for separating from Holland. I confess I do not see the force of this consequence. The beast of the field is driven by hunger; the civilized man is influenced by higher motives. Admitting the fact, prosperity could not have abided under a regime which submitted the agriculture* and manufactures of the south to the commercial interests of the north. But were the long series of arbitrary proceedings against the press nothing?—the direct and scandalous evasions of the charter?—the illegalities in the dispensation of justice?—and the excitations of the religious feelings of the people? These, if they do not excuse rebellion, will sufficiently explain it."—vol. ii. pp. 146-150.

The Dutch royal mode of taking votes upon a constitution, is only a somewhat exaggerated case of what has been lately witnessed among ourselves. When the King of England was made to talk of having made 'an appeal' to his people, there was no more intention of abiding by the result of that appeal, than in the case of William the Dutchman; and the means intended to be used, were the same in the two cases,—'an *interpretation*.' Tory gentlemen stood up in the Lords and Commons, and declared that if they had not had a majority in the elections, they ought to have had; that all the wise and good were with them, by the token that all who were not with them were neither; and upon this evidence, as in the case of the Dutchman's absentees, the majority was declared no majority, and the Dutch precedent was followed in the consequences. The ministers had manifestly put into the King's mouth, what South with nicest accuracy defines to be an 'outward signification of something contrary to, or at least beside, the inward sense of the mind; so that one thing is signified or expressed, and the same thing not meant or intended.' It is pleasant to be able to bring up the vigour of past times, to the assistance of modern refinement.

The novelist has done well to give circulation to the monument of royal or loyal degradation concealed in a 'deep and umbrageous

* 'In point of fact, a tax on flour, and a tax on the slaughtering of cattle, which pressed with crushing severity on the lower classes, were among the immediate causes of that casual violence which caused the explosion.'

bas fond,' but to other eyes a froggy-looking splash in what might seem an antiquated gravel-pit, in the park at Brussels.

"*Petrus Alexiowitz, Czar Moscoviæ, Magnus Dux, margini hujus fontis insidens, illius aquam nobilitavit, libato vino, horâ post meridiem tertîâ, die xxi Aprilis, anni 1717*." *

'But the time was gone by, when such loyal futilities, such mementoes of brute despotism, might have possessed a classical charm for the English partisan of divine-righted sovereigns. This base and servile reminiscence of the imperial centaur, half man, half beast, Peter the Great, the murderer of his son, the victim of his own fierce passions, served only to recal Siberia and the knout, on the spot where the Dutch soldiers had retreated from the victorious arms of an outraged people.'—vol. ii. 175.

The lapidary Latin is not over and above perspicuous; but the tradition of Brussels which comes in aid of the sculptor, is that Peter ennobled the place by falling in, *being drunk*. Such is the *nobilitavit*, that comes by such 'fountains.'

A conversation on the state of Germany, is worth a multitude of what men call state-papers.

"Hasn't Nassau something of a little constitution of her own?" asked Lord Aubrey. "I think somebody said so in the House, the other night."

"Oh, yes," said the Princess, sneering; "a little house of commons in the village of Beiberick, close to the Duke's country-house; and prettily he has been paid for it. One of its members chose to oppose the budget. The Duke naturally turned him out, and all who voted with him. The *frondeur* refused to pay the tax, all the same; was thrown into prison, and died. The son, following in the father's steps, had his property in Wisbaden seized, when two pictures, amongst other things, were put up for sale: the first, the portrait of the *frondeur*, sold for four hundred francs; and the second, the Grand Duke's own, was knocked down for three kreutzers."

"Well, if they will give constitutions to nations who are not fit for them, they must take the consequence," said the Marquis.

"True, Milord," said the Count. "Germany is essentially aristocratic. The people are well fed and contented; and provided the press be kept quiet, and a few turbulent spirits curbed, all will go the better for it."

"That is just the reverse with us," said Lord Allington: "our people are better taught than fed; and that's the reason I have *mangé ma fortune*, before the radicals rise to eat it for me."

"Not," said the Count, "that our people are ignorant. The King of Prussia, for example, has taken the national education into his own hands; and, improving on Napoleon's catechism, has determined, not only what the nation shall believe, but what they shall know. By his

* "Peter Alexiowitz, Czar of Muscovy, Grand Duke, sitting on the edge of this pond, conferred the rank of nobility upon its water, *after libation of wine*, at three in the afternoon of the 16th of April, 1717."

benignant despotism, in educating the youth of his land to be useful and submissive subjects, and prevented them from educating themselves in the school of French jacobinism, he has done one of the greatest things that has been effected since the foundation of the Jesuits."

"I prefer the Emperor of Austria's plan," said the Princess: "plenty to eat, and no press; pleasures for the obedient in Vienna, and fortresses for the refractory in Hungary. Your king—for I believe, Count, you are a subject of Prussia—has put thoughts into his subjects' heads, and arms into their hands. Not but that the Prussian system would do very well for England and France; and I am happy to see that the *juste milieu* ministry in France are trying to import it, and that your English Tory writers, my Lord, and reviewers, are preaching German metaphysics and German criticism; and German institutions, to their countrymen. One way or other, the press must be put down. You must dog the heels of miscreant publishers, and incarcerate revolutionary authors in dungeons as deep as those of Spielberg, or as high as those of Marksberg, if you do not mean to merge your hereditary honours in a universal democracy."

"You are quite right, Princess," said Lord Alfred.

"I saw two statesmen in Marksberg, the other day," said the Count, while the vehement Princess paused for breath: "they are shut up, the one for forty, the other for two-and-twenty years, for some inflammatory publication."

"You will see the romantic fortress," resumed the Princess, penning the route with her pencil, "where these erring mortals behold from their grated windows the glories of the Rhine beneath. The late affair at Frankfort will people the towers, and fill *oubliettes* long untenanted."

"It is all the fault of the Whigs," said Lord Montessor, yawning.

"From the very first attempt to abolish the patriarchal *Leibeigenschaft*, I augured the worst results," said the Count.

"Why, Count," said Lord Allington, "you and the Princess seem to anticipate the restoration of the secret tribunal! What do you call it in German?"

"The *frei gericht*," exclaimed the two mediæval potentates together.

"My own castle," said the Count, "was a *frei stuhl*, or seat of the tribunal. Margrave Rodolph II., from whom I descend in a direct line, was the last *stahl graf*, or supreme judge; and all the principal vassals of the family were *frei schöppers* for many generations."

"How very nice!" said Mrs. St. Leger. "I do so love the German language!"

"But the whole magnificent system," continued the Count, "was overset by the short-sighted policy of Charles the Fifth."

"Or rather," said the Princess, "by the innovating spirit of that reforming age to which Charles was obliged to yield."

"The very word 'reform' makes me sick," said Lord Alfred.

"What really was that secret tribunal," asked Mrs. St. Leger, "one reads so much about in German romances?"

'Lady Frances Mottram and Claude Campbell were meantime engaged

in the window apart, muttering over a bouquet of flowers and some toys he had brought in: Lord Aubrey was leaning over Lady Montessor's couch, catching, as he might, the feeble murmurs of her lisping accents.'

"The *frei gericht*," said the Count and the Princess, speaking in a breath, but the Princess maintained the *parole*—"The *frei gericht* was a mysterious tribunal which spread throughout Germany, selected from princes, nobles, and citizens; for all who could, were anxious to be the agents, rather than the victims of its terrific but necessary denunciations. The *wissenden*, or initiated, knew each other by secret signs."

"A sort of despotic carbonari, I suppose," said Lord Allington, a sly look of mingled humour and surprised curiosity passing over his countenance.

"The accused knew neither his accuser nor his judge," said the Count.

"That was pleasant," said Lord Allington.

"The oath," said the Princess, "was to spare none—(and what beautiful poetry!) none that the sun shineth on, or the rain wetted, or that floats between heaven and earth. Is not that fine? How very sublime!"

"Very!" said Mrs. St. Leger: "what Lady Agnes would give for it, for her traditions of the Rhine, which will now have such an interest, when everybody is going there!"

"And such novelty!" said Lord Allington.

"Lady Agnes is a twaddle!" said Lord Alfred.

"I think her charming!" said Mrs. St. Leger. "But go on, Count, about your tribunal."

"The proceedings were summary," said the Count. "The culprit was summoned: if he refused to appear, he was surely found dead, with the executioner's knife sticking in his breast."

"And if he did appear?" said Lord Allington.

"Why, he was brought to one our castles, let fall through a trap into the *oubliettes*, and there was an end to him," said the Princess, carelessly. "But pray read Goëthe's divine 'Goetz Von Berlichingen.'"

"Oh! I remember," said Lord Allington; "his extravagant heroine was a victim of the secret tribunal."

"Should such an institution be again required," continued the Princess, "in these most innovating times, I believe, Count, that many of our castles are still *in statu quo*."

"One of mine," said the Count, "has its range of dungeons perfect, with dark vaulted chambers, stone doors, instruments of torture fixed in the walls, and *oubliettes*."

"How very nice!" again exclaimed Mrs. St. Leger: "I wonder all the romance writers in the world don't come to Germany, to visit these castles on the Rhine."—vol. iii. pp. 162—168.

The novelist is acuter than some who believe themselves to approximate to statesmen; in surmising that Prussian royal education, and Tory reform, are matters deserving nearly the same degree of confidence from honest people.

After settling the fate of the principal characters, who are neither married nor given in marriage after all, the real conclusion of the novel is political.—

'BELGIUM meantime, and her affairs, continued to advance in prosperity and stability, in illumination and in wealth. Every successive event proved that her revolution had been, not an accident, but a necessity; that it was a step forwards for the great family of Europe, and (as far as it has gone) a successful experiment in self-government. Thoroughly democratic in its principles and tendencies, the career of the new government has been blotted by no excesses, and stained by no legislative extravagances. A perfect and absolute freedom of conscience, unattained either by France or by England, has left the true interests of religion on a basis firmer and wider than established monopoly could ever boast. A total overthrow of aristocratic privileges has left property undisturbed even by a momentary alarm. The authority of reason is respected in the Chambers, and that of the laws prevails in the tribunals; and, maugre the political preponderance of a Catholic hierarchy, and the lingering endurance of much deep-rooted popular prejudice, the diffusion of a steady and beneficial intellectual light is gradually manifested even in the smaller cities.

'At the aspect of so much moderation coupled with so much firm resolve, foreign states have begun to feel the importance of the stand made by the Belgians under the banner of national independence. The old cabinets of Europe, which had kept back their envoys on the confines of despotism, waiting at Frankfort upon events, have at length discovered in the 'bloody and needless revolution,' a power and a permanence worthy of respect; and Brussels, which, in 1833, had no diplomatic residents save those of France, England, and the United States, has since received the representatives of the other great powers, and their dependant followers.

'Fertile, laborious, commercial, and rich, Belgium has entered boldly into the question of free trade, and is hourly rising superior to prejudices which belong neither to the age nor to her equitable government. Pressed on one side by the hostility of Holland, and on the other by the uncalculating jealousy of the French miners and manufacturers, she does not seek protection in reciprocal restrictions; but has sent commissioners to Paris, to join in that greater commercial revolution, which is the destined supplement of the political regeneration of constitutional Europe. This is worthy of her intelligence, and of the frank and manly character of a people formed for freedom.

'The industry and commercial spirit thus announced, afford the strongest guarantees for the beneficial influence of the new government on the peace and prosperity of Europe. Admitting that the independence and political existence of a nation consisting only of four millions of people, must in some degree repose on the will of the neighbouring powers, which have as many million of bayonets under their command, still, in the rapid progress of civilization, the dominion of force is hourly declining; and it may be hoped that the well-understood interests of all the limitrophe states will range them on the side of

Belgian integrity. A general war may again deluge the fields of Belgium in blood, and subject its cities to the law of the strongest; but, if the lessons of the past have not wholly been given in vain, it will be long before Europe will again be visited by a calamity so dreadful. It is not therefore too much to augur a protracted and a brilliant existence to this infant state, or to look with confidence on its future destinies, reposing as they do on the same foundations with those of French and English liberty, and the future prosperity and intelligence of the great Germanic body. Of this, however, Belgium is sure—that it can never be worse than it would have been, under the Mezentian embrace of Holland, and bound hand and foot to the will and pleasure of the three great bulwarks of ignorance and slavery.—vol. iii. p. 380.

Whatever the novelist may be elsewhere, it is clear that as long as to have propped rising states can give a claim to the title, she must be a 'stateswoman' in Belgium.

ART. II.—*Letters from India; describing a Journey in the British Dominions of India, Tibet, Lahore, and Cashmere, during the years 1828, 1829, 1830, 1831; undertaken by order of the French Government.* By Victor Jacquemont, Travelling Naturalist to the Museum of Natural History, Paris.—2 vols. 8vo. London; Churlton. 1834.

THE remarks of an intelligent foreigner on India, are necessarily interesting to all in Great Britain or in any other portion of the world, to whom India is a subject of curiosity or of concern. What the English are doing there and likely to do,—what is the state of the country and of society, arising out of the unprincipled conquests of a few mercantile adventurers, but which have ended in letting in the knowledge and improvements of a more advanced portion of the human family upon a less,—are questions which are not so completely and indubitably answered by the lions that are uppermost, as to preclude all possibility of light being thrown on them by an indifferent spectator. And though it should not be predicable of the actual traveller, that he had carried to the examination all the illumination which France could furnish, it would be difficult to prevent many rays of scattered information from piercing by means of his intervention. In fact France was not responsible for the traveller as a statesman, a military authority, or a philosopher, but only as a 'Travelling Naturalist;' and as the views of a travelling naturalist upon what lay out of his immediate line, his statements are to be estimated.

There are two great divisions of critics among the public,—those who want the truth to be known, and those who want it

not. There is no wonder, therefore, that the last of these classes should make a set at a writer whose information is scattered under the not very favourable form of letters to his familiars, and those written in a way which evidences that the conveyance of information touching his own personal well-being and *manière d'être*, was more before the writer's eyes than speculations upon the deep things of India. Add to this, that the writer was of a nation where general opinion on many subjects runs in different courses from those it occupies here, in courses too, peculiarly hostile to the combined mental and bodily tyranny with which the English people is at this moment struggling with varied success,—and there will be no difficulty in comprehending how his communications may have excited great wrath here, among those whose enmity is the measure of the progress of the general good.

M. Jacquemont, it appears, was a zealous republican,—of that class which republicanizes in a *coterie* of equals, and pulls men by the pigtail when it can be practised with impunity. The description of his politics is complete. His religion, or if the word be better, indiglion, avowed as openly and with as much confidence of acceptance from his correspondents and acquaintances as if he was a good Hernhuter writing in the style of his society to Hernhut, is an example to established churches, of what a church may bring things to, by a certain degree of perseverance in persuading mankind that it is a machine for drinking up the good things of this world, rather than for having any demonstrable bearing on another.

The writer's remarks on Brazil, are valuable for the assertion that Saint Domingo has made greater progress in civilization than that country, and it is plain enough that this is not said from any speculative partiality for the negro race. • M Jacquemont is only a republican for the pot,—that is to say, for his own pot, he never republicanizes further, than men of what he thinks his own class are to have the benefit.

'I have spoken to you of Saint Domingo—undoubtedly I did not give you a very brilliant picture of it, well' in my opinion Saint Domingo has made greater progress in civilisation than Brazil. I here saw, for the first time, negro slavery, on an immense scale, forming the key-stone of society. In twenty days, I saw several vessels arrive from the coast of Africa, loaded with these miserable creatures, a prey to frightful diseases, heaped together on landing, and penned in like animals, and side by side with these horrors, the most refined luxuries of European civilisation. The Portuguese, like the Spaniards, feel not the contempt, the physical repugnance towards negroes, which few English or French can resist. They have not instituted against them, that system of refined humiliation adopted by the colonists of Jamaica and the Leeward

Islands; but they are not less violent and merciless masters. Under their whip, the negroes live a few years, and die without issue. The character of this unhappy race must be very mild, innocent, and timid, for revenge and crimes not to be more common at Rio, than they are. The masters, with their polished, even elegant, European exterior, are, in many respects, as much debased by slavery as the brutalised negroes. I saw them with their golden key on their coat, with their diamonds, their ribands, their titles, their ignorance, baseness, and dishonesty, and I was disgusted. I sought a middle class—laborious, thrifty, honest, respectable—I found none. Beneath this gilt-edged rabble, I found only black slaves, or free men of colour, who are slave-owners, and the worst of all. Is that a nation? And is it not the portrait of all the new independent states, dismembered from Spanish America? The Spanish and Portuguese races are not more progressive in the New World, than in the Old. They possess liberty only in name. But what is liberty?—is it an end or a means? You will see, my friend, what inter-tropical America will become with its liberty: it will be what it was before—a country without inhabitants, and without riches, because it is without labour. Labour and economy are all that are required; and liberty is precious only when employed in working, and in laying by. An admirable use is made of it in the United States; because the English race, by whom the whole of the North of the New World was peopled, is eminently industrious and orderly. I have told you, how the North Americans crushed us French by free competition. What will their neighbours, the Mexican Spaniards, do beside them?

‘The colonial despotism which still exists in Canada, though much tempered, cramps the English population on whom it is imposed, in the development of its industry and tendency to improvement, and opposes an obstacle to its increase and strength. In Brazil, the oppressions and vexations, preserved by the monarchical form of government, but feebly defend the country against a contrary principle of decay and weakness.’

‘In Brazil, all labour is performed by negro slaves. Stop the traffic, abolish slavery, and there will be no work at all. Shoot or depose the emperor Don Pedro, dismember his monarchy into several confederated republics,—and anarchy will break forth every where; it will favour the revolt of the blacks, and the whites will, in many places, be massacred. There is no escaping from this alternative, except by maintaining the present order of things. It is most melancholy!’

‘Perhaps you will have learnt, ere you receive this letter, that Bolivar has made himself king: I wish it may be so, for the sake of his country. Our friends will exclaim “treason!”—people will cruelly repent having compared him to Washington, because he will have violated the name of a vain and useless liberty; and they will not understand, that a despotic chief is a thousand times preferable to the frightful anarchy which now desolates the new American republics. Liberty is a superfluity for nations in want of food and laws.’—vol. i. pp. 28—31.

It is valuable to the world to know, and flattering to the small community of poets besides,—that the songs of Béranger are sung by the French navy in chorus.—

'Béranger may reckon upon a dozen leaden bullets if, on my return to France, they should take it into their heads to make me a *rey netto*. Figure to yourself, my dear friend, some fifty officers and sailors, singing together, each in his own key, and without even sticking to it, what we liberals call the *odes* of that great poet. This abominable Dutch concert, of which Béranger has furnished the first materials, makes me have a horror of him.'—vol. i. p. 35.

Another account of Brazil is equally descriptive with the last.—

'Brazil is the abomination of desolation. Imagine some hundreds of viscounts and marquesses, with the gold key on their coat, five or six gold, silver, or diamond stars, of all sizes and colours; ignorant, cowardly, and subservient to the emperor's pleasure; and under them, no middle class of respectability, nothing but a rabble of retailers and rogues, nearly white; then a terrific number of negro slaves almost naked, who live a few years and die, commonly without issue. They are driven to labour with the whip: a small portion of their labour feeds them, and they receive a belt and a pair of trowsers: the rest goes to find the carriages, cambric shirts, and silk stockings of the 300 marquesses. Depose Don Pedro, and all the provinces will separate into federative republics. Anarchy will burst forth every where; then, soon after, will come the revolt of the negroes, and there will no longer be any European rule in Brazil. Keep the emperor, but abolish the slave trade, and there will be no more labour, no income for any body; all must decamp if they would not starve; and you will see all the 300 fashionables, with their stars and gold keys, arrive at the hells of Paris, Cadiz and London. The *statu quo* is the only thing possible. The emperor, though sincerely devoted to the constitutional theories of M. Constant, is convinced of this, and governs accordingly. He lives from day to day, not caring for the future. Don Miguel is much loved at Rio Janeiro, as it was he who consummated the separation of Brazil from Portugal.'

'What few political journals there are here, are edited by foreigners, mostly French. The emperor cannot give his subjects, his *macaúcos*, as he calls them—for he often tells them, they are a set of mischievous apes—the liberty of the press. He has established it by law, but the manners of the country are opposed to it. Several journalists have been knocked on the head, in the streets, at night, for telling the truth. This disgusted the rest, and they do not say a word more. Besides, no one would be at the cost.'

'Scenes of violence are frequent. I was near being struck by a pistol shot, fired by a robber, who was escaping, at his pursuers. He was taken, pinioned, and conveyed to the palace guard-house in the emperor's vestibule. There he was examined quite after the Turkish fashion. The police deliberated whether they should release, beat, or kill him; the officers looked calmly on, smoking their cigars, with their hands behind their backs. He was beat with such severity, as to break one of his arms, and then imprisoned. The same evening, I saw one


black beat another to such a degree, that he killed him on the spot. I was told it was a father who had killed his son, the latter having attempted to assassinate him. He was not apprehended. Besides, the law scarcely ever condemns to death, even slaves; and when by chance there is an execution, there is a general consternation throughout the city; and the devotees have mass performed for the salvation of the culprit. Almost all crimes and misdemeanours lead indifferently to the galleys: and they are frightful. Figure to yourself, that the administration of justice does not even order a regular distribution of provisions in the prisons. The prisoners live entirely on alms: when these fail, they die of starvation, unless the chancellor sends them some bananas.—vol. i. pp. 37—39.

If this *statu quo* is the only thing possible, it is a very ugly possibility. It would be a strange argument, in anything else than politics, which should maintain that because a thing was detestable, therefore alteration was impossible.

The author's general sketches of the state of things in India, are often incorrect; though not to such a degree as to raise the suspicion of voluntary exaggeration. On the contrary, they are generally the effect of taking the first impression of what was novel and out of the habits of Europe, without examination. For example, the author's description of his intended style of journeying in India, is a pretty accurate picture of the ordinary *ménage* of a lieutenant of infantry, of either the King's or Company's service, on a march. The most doubtful item is the price of the horse; on whose qualities certain sneers are subsequently bestowed. The price of horses in the different parts of India varies considerably in a few years, and there is hardly time to send for a price current of 1829 from Calcutta; but the suspicion may be, that the sum mentioned (1000 francs, or 370 rupees) would bear a considerable proportion to the price of a horse for the Company's cavalry, and consequently the animal need not be so very bad.

'In another week, I shall begin this journey of six hundred leagues to the north-west. A bamboo cart, drawn by oxen, will carry my luggage. A bullock will be laden with the smallest tent in India. Your humble servant, devoted to white horses, will ride on an old steed of that colour, which will cost him only a thousand francs (a good horse costs from 3000 to 3500 francs), at the head of his six servants; one carrying a gun, another a skin of water, a third the kitchen and pantry, another with the horse's breakfast, &c., without counting the people with the oxen.'—vol. i. p. 119.

✱ But the statement which follows, that 'an English captain of infantry would have five-and-twenty servants instead of six,' may be considered as at least double the reality; and the twelve men to carry a palanquin, may be set down as non-

entities, unless where the said captain carries about with him 'a sister or a wife,' or somebody who is neither. The representations of civil luxury, are also liable to similar deductions; the fact with respect to European residents in India, being that all the different grades have no more than on consideration of the obstacles to contend against in climate and in manners, makes the maximum of economy, or the minimum expense for which decent people can be got to perform the duties. When it is announced that a private European dragoon in India, has men to cook for him, and to help to feed and clean his horse, the explanation of the whole is, that this is the cheapest way of having and preserving European dragoons in India. What was gained by the contrary practice, would not pay for the wear and tear as displayed in the importation of recruits, or in the substitution of a worse class of men. And the same reasoning, *mutatis mutandis*, holds good with the higher ranks both military and civil. 

. In addition to these sources of inaccuracy, the author sometimes does not appear to have understood very clearly the relative ranks of the individuals he cites. For example, [p. 154, vol. i], he speaks of a 'collector' he found at Rogonatope with his wife and child, who had an elephant, eight cars, &c. and to whom, 'finding him a good-natured fellow,' he condescended to communicate 'who he was,' without apparently the slightest surmise that this 'collecting' personage, was a man of about the standing of a French *sous-préfet*, and that his mode of travelling, the circumstances of the country taken into account, was in no way more inordinate, than if the French civil dignitary had been found travelling from one well furnished inn to another with his family and servants in two *voitures de poste*.

The progress of European establishments in tropical countries, particularly in Africa, has been much impeded by the want of this knowledge of the economic maximum. Sierra Leone, for example, is not intrinsically more untenable than a new and not first-rate establishment in India, but the want of the appliances and means of health, makes all the difference. If anything could cause Sierra Leone to be occupied in force by the civil and military myrmidons of the East-India Company, in half a dozen years it would be a crack settlement for healthiness.

The most unfortunate part of the author's representations of India, is where he describes himself as having learned from the English residents the practice of kicking, bamboozing, and pulling by the pig-tails, the aboriginal inhabitants of Asia. He must have

had models other than he tells of. There may be no doubt that a drunken subaltern might be occasionally discovered in some such fact; but for a foreigner to represent himself as having copied the general manner by adopting it, is as unhappy as if an Englishman should announce that he had contracted similar habits in France through association with the officers of the French army. The whole position of the English among the Indians, is opposed to such habitudes. They rack-rent them, and make fortunes out of them; but they have vastly more sense than to add kicks, in a country where a man will bear the spoiling of his goods, but run *a-muck* on the threat of being touched by a bit of pig-skin. The probability is, that the 'Rajpoots and mountaineers' who were beaten by the French naturalist, took him for a strange animal and dealt moderately with him accordingly.

The account of the reception of the Revolution of the 'Three Days' in India, is characteristic of the tone of British feeling in that country. Whatever may be the cause, it is certain that liberalism is there always in advance, rather than arrear, of its state at home.

'This news had been brought to Calcutta by an English ship, which had sailed from Southampton on the 2nd of August. Since then, another has arrived from Bordeaux, having left that city: it entered the Ganges with the tri-coloured flag, which was immediately hoisted by all the other ships of our nation moored in the river. I was at Meerut, the largest military station of the English in India, when the flood of news which she brought, arrived there. Friends and strangers all came to congratulate me on being a Frenchman; I defy M. de Lafayette, in America, to have shaken more hands in one day than I did. My host, a cavalry colonel, who was the only one of his regiment that escaped at Waterloo—not without a ball through his body—wept for joy as he embraced me. Enthusiasm had put the rigid etiquette of English manners to the rout; the *saute qui peut* still lasts! I might throw my passports, and letters of introduction, into the fire, change my name, and preserving only my French nationality, set out for Cape Comorin—there is not a European in India that would not receive me with open arms. These enjoyments are new to me; I cannot describe them. All shades of political opinion among my hosts are confounded in the same feelings of admiration, love, and gratitude to the French name; and as I am the only one that bears it, I receive proofs of these feelings from all sides.'

'All the civil and military officers of this province joined in giving me a fête on the last day of the year just ended. Of course, a constitutional and moreover an English *fête* was a banquet, and you may guess that I did not escape from this enthusiasm without a speech; but I was wound up to the same pitch as my hosts, and words cost me nothing.—vol. i. p. 336.

The traveller, though not always complimentary to the English, is not averse to giving them the credit he thinks their due.—

‘How deplorable is the condition of the human species in this vast East! The British Government in India, though it calls for some reforms, merits nevertheless many eulogiums. Its administration is an immense blessing to the provinces subjected to it; and I have only fully appreciated it since I have been travelling in this country, which has remained independent: that is to say, it has remained the theatre of atrocious violence, and continual robbery and murder. Society in the East is fundamentally defective. The first of its elements, a family, scarcely exists. In the upper classes, which afford an example to those below them, polygamy impedes the affection of a father for his children, on account of their large number, and awakens jealousy and fierce hatred among brothers. The wife is an impure creature, whom her husband scarcely considers as being of the same species with himself. Children, as they grow up, soon imbibe this abominable contempt for their mother; and it drives them from her, as soon as they can dispense with her services. Can sympathy, when banished from the domestic hearth, exercise itself more ardently abroad?’—vol. ii. p. 90.

✱ The simple truth on the subject of the British Government in India is, that in everything which relates to its political conduct, or that which takes place between state and state or their rulers,—its behaviour is detestable to an extent of which the worst violences of Napoleon in his worst moments afford but an impotent and inexpressive type. Yet for all this, there is no doubt of the fact, that the middle class of ruling English carry out with them and preserve so much of European justice and integrity, as makes it perfectly true, that to the portions of the population over whose heads the storm of political injustice flies harmless, their administration is in the words of this foreigner, ‘an immense blessing.’ An individual Englishman is *not* hated in India; on the contrary, the natives rather gather round him, as one about whom there is an atmosphere of security and justice. The transgressions of the civil servants, in their character of dispensers of justice, have been almost null; and those who have seen Sir John Malcolm in communication with a native agent, know best whether it is by the ‘kicking’ system the military chiefs secure the services of the Indians. There is evidently a secret, in 30,000 English troops keeping possession of a country with a hundred millions of people and an army of 250,000 natives; and here it is. *Bating political enormities*, the government of India is creditable to the nation that conducts it; and stands in fact a monument of the virtue and intelligence of the middle classes of British society from which the immediate agents are supplied. 6

Though the French naturalist did not profess statesmanship, he sometimes makes observations which may be worth a statesman's eye.—

'Domestic manners in India, which are the greatest source of its misery, seem to me to be susceptible of no amelioration so long as this country preserves its present religious institutions; and perhaps it is generally believed that these are unassailable. All the direct attempts at religious conversion made by the English, in Bengal especially, have entirely failed. The Indians, upon whom the experiment has been made would in no case change Mohammed or Brahma for Jesus Christ and the Trinity; but, within the last few years, the Government has wisely (and courageously too, for it requires courage in the Company to provoke the stupid and hypocritical wrath of Parliament), withdrawn its support from the missionaries, and opened gratuitous schools at Calcutta, Benares, and Delhi, whither it attracts, by every influential means in its power, children of the middle ranks, to instruct them in the languages and sciences of Europe, without telling them of any of our follies.'

'I have visited these schools, at Calcutta in particular, where they reckon the greatest number of scholars; and I have conversed with many young people in the higher classes, Brahmins and Mussulmans, whose European education had naturally converted them from Mohammed and Brahma to reason. Several of them, indeed, complained that this treasure made them but the more miserable, in cutting them off from the rest of the nation, and making them conceive and desire happiness under forms interdicted by their caste; and none of them have yet had the courage to surmount this barrier.'

'Nevertheless, if there be any hope of ever civilising the East, it must be by these means alone. The English Government would accelerate its action immensely, by substituting, in the courts of justice and all public transactions, the use of the English language instead of the Persian, introduced by the Mogul conquerors, but the knowledge of which has remained quite foreign to the mass of the people, and has only continued in certain hereditary professions. Ten years would suffice to effect this change: for the Indians require English much more than Persian; and the latter is only of use to those acquainted with it, in the routine of their employments; whereas English would be a key for them to the whole circle of European knowledge.'

'There are not wanting narrow-minded individuals, foes to this generous project; but I doubt not that, in a few years, it will be adopted by the Government. It will spread the light of Europe throughout the country, and qualify it some day to govern itself.—vol. ii. p. 91.

Without the smallest desire to refuse protection, still less to persecute the followers of any religious faith, there can be no doubt that this is the true policy in India. Teach men European knowledge, and then, if European creeds be reasonable, they may be expected to adopt them.

The traveller appears to have been seized at Jummoo with

a desire to come home and be a Deputy; and his discussions on this subject to his father are such as may be read with advantage in England in the actual state of the parliamentary chaos.—

‘My letters last winter expressed the enthusiasm with which the revolution inspired me, and the bitter regret I have sometimes felt at being so far from France at that memorable period. Since then my opinion concerning those great events has much changed. It has been modified, like your own, in proportion as I saw so many base, absurd, and ignoble consequences proceed from so noble a principle. I see many people speak in the tribune of the events of the great week, as being their handy-work, as if they had fired a gun in the streets with the working mechanics, and as if it was not solely by the muskets of these mechanics that the revolution was achieved. The hostile tone of all parties in the chamber is a deplorable error. Shall I tell you, my dear father, that I sometimes regret not being a deputy? I know not whether I am strangely deceiving myself; but it appears to me that an honest man, who would play the part of mediator, without art or craft, and simply by showing the acute pain he suffers from these bitter dissensions between men so long united, and the misfortunes with which they threaten the country, would not speak in vain. The artifices of logic in what is termed the eloquence of the tribune, are too far-fetched: they almost always wound the self-love of those against whom they are exercised. Too great pains are taken to convince, and not enough to persuade. Some aim at oratorical display; I wish they would aim at touching the feelings: this is what I should try to do, if I were in the chamber under present circumstances. Can what is easy in a *tête-à-tête*, or in a small company, be so very difficult in a numerous assembly? Mistakes and differences may arise between honourable men; but they must be very blind, and their advisers very bad, if these quarrels are not soon terminated by a sincere reconciliation, and the mutual friendship and esteem of the parties rendered more firm than ever. All parties have wrongs to complain of from one another, and these wrongs are daily aggravated by the deplorable obstinacy with which each shuts himself up within the circle of his own peculiar views. Rather than be the impotent witness of these fatal dissensions in our own country, I prefer being at the extremity of Asia, removed from them by space and thought.’—vol. ii. p. 193.

These extracts are sufficient to show that the French traveller has not displayed all the absence of discrimination and the higher qualities of judgment, attributed to him by the organs of ecclesiastical bigotry in England. His melancholy end alone, should have secured to him a greater portion of the courtesy which ordinary men bestow upon the dead.

- ART. IV.—1. *Mothers and Daughters; a Tale of the year 1830.*—London. 3 vols. 12mo. 1831.
2. *Pin Money.* By the Author of the ‘*Manners of the Day.*’—3 vols. Post 8vo. 1831.
3. *The Young Duke.* By the Author of ‘*Vivian Gray.*’—1831.
4. *The Fair of May Fair* : 3 vols. Post 8vo.—London. 1832.
5. *The Exclusives.* 1830.
6. *Love and Pride.* By the Author of ‘*Sayings and Doings.*’ 1834.
7. *Aims and Ends.* By the Author of ‘*Carwell.*’ 1833.
8. *The Sketch Book of Fashion.* By the Author of ‘*Mothers and Daughters.*’
9. *The Disinherited.* And *The Ensnared.* By the Authoress of ‘*Flirtation.*’ 1834.

IN the history of the class of works usually called ‘fashionable,’ but which may be more generically termed ‘aristocratic’ novels, there lies a more instructive moral, a deeper philosophy, than is supposed by common observers. A feather, a straw, will show the direction of the wind. A cloud which at first seems no bigger than a man’s hand, may be the forerunner of a tempest that will root up forests and engulph navies. The English aristocratic novels of the last ten years may read, if rightly interpreted, to the 19th century, a lesson not less significant than that which was conveyed to the 18th in the biting sarcasm of Voltaire, and the burning eloquence of Rousseau.

The grand source of all pleasure is in the favourable regards and services of our fellow creatures; and what are wealth and power, but other names for a command over those services? In this mode of procuring the service of others, it is important to observe the comparative range of the two instruments, wealth and power. The range of the latter is far wider than that of the former. The means any man has of paying for the services of others, are necessarily limited. The power of inflicting evil in case of disobedience, and of procuring service by fear, is not so limited. The means which have been possessed by some men, or bodies of men, of imposing their commands on other men through fear, have extended to many millions.

But there is another important phenomenon to be noted,—a remarkable case of association. The influence of wealth and power extends beyond the absolute circle of their action. By a fundamental principle of their nature, men strongly associate the idea of happiness with command over the sources of human

enjoyment. This will in a great measure explain the proneness of mankind to interest themselves in the fortunes of the rich and the powerful,—their readiness to go along with them in their affections, and to desire the accomplishment of their ends.

Where the government is purely monarchical, the feeling of interest, as far as it follows power, will be with the monarch and his principal officers and personal attendants.

Where the government is aristocratical, power is in the hands of a body more or less large, but necessarily a minority of, and commonly bearing a very small proportion to, the whole nation. The individuals composing this body, and their families, are the depositaries of political power, the arbiters of fashion, the source of honour, and the standard of morals. They may be truly said therefore to have an absolute command over all the earthly objects of man's desire,—to live in the full enjoyment of every earthly pleasure. All the interest which is so closely linked with the idea of happiness, follows them like their shadow. But besides the interest felt in their happiness, there is an interest excited by their power of dispensing happiness to others,—to many others,—and most interesting case of all, perhaps to ourselves among the number. Who can wonder then, that they and their actions should be so important to their fellow-citizens ; that all interest should ever be with them.

Now something very much like this was the case in England a few years ago. Before the passing of the Reform Bill, the government of England was aristocratical. The terms 'mixed government,' 'constitutional balance,' were mere bluffs, political sophisms, at first probably got up by knaves, and afterwards bandied about by fools and twaddlers. The government, at least within certain limits which contained the whole of the debateable ground, was absolutely with the aristocracy. They could not cut off a man's head like the Sultan, nor sew a woman up in a sack for being displeasing to her husband ; but within these limits or a little more, they were the final arrangers of everything. In England from the Norman conquest down to the reign of Charles I, the government was monarchical, *i. e.* the real sovereign was *one man*. From the Revolution of 1688 to the passing of the Reform Bill, the government has been aristocratical, or the real sovereign has been *a number of men*. It was owing to the clearness with which Hobbes and the Duke of Wellington (an odd juxta-position) saw this, that they have both in their respective ways encountered so much obloquy. Hobbes said there was no medium between a sovereign *one*

and a sovereign *number*; that the sovereignty in short could not be shared between the one and the number; in other words, that the *one* could not have one part, and the *number* another part.—that it was a question of all or none. What he called, therefore, loyalty to his king, made him always repudiate the notion that that king was less than supreme or sovereign in his own individual capacity. In like manner the Duke of Wellington's devotion to his order, which composed the oligarchical government of his country, made him averse to the admission of any more of the community to a participation in the sovereign power. Undoubtedly he saw as clearly, and probably acted quite as honestly, as many who have not come in for a tithe of the vituperation heaped upon him.

In England the result has been what might have been looked for from such premises. The books professing to give details of the lives of the aristocracy, have been read with avidity by all who could afford to buy or borrow them. The curiosity and eagerness of the readers to look into the private lives of those who were the arbiters of their destiny,—who possessed so much, and consequently had so much to give away,—were such as to make them little fastidious about such trifles as sense or style; and they did not even seem to be very solicitous as to whether the works were written by my lord or my lord's valet, by my lady or my lady's maid. When the novels of this class first began to appear, they appeared altogether anonymously. They might, as the puffs of their publishers which were intended to 'prepare the public mind' for their reception intimated, be manufactured by 'persons of quality,' or they might not. Unhappily for the belief in their authority however, certain plebeian men of letters took upon them to affirm, or at least to intimate, that the said commodities were manufactured not by persons of quality but by their lacqueys. This probably had an unfavourable effect upon the sale, and induced the publishers to require the appearance of an aristocratic name on the title-page. Or perhaps the persons of quality were resolved to demonstrate to the universe, that they could write such books without the assistance of their lacqueys; or perhaps, like Mr. Simpson of Vauxhall, they were moved by the admiration expressed for the style of their productions by his holiness the Pope of Rome. But be that as it may, certain novels now bear the names of persons of rank on their title-page, and others are generally recognized as the production of persons of rank, though the names do not appear on the title-page; from which two classes alone, may be drawn the evidence upon the question.

The more the subject is looked into, the more forcible appears the resemblance between the state of morality of the French noblesse before the Revolution, and the state of morality depicted in these novels. 'A great lord,' says Montesquieu, 'is a man who sees the king and speaks to the ministers, who has ancestors, debts, and pensions. If, with that, he is able to conceal his indolence and imbecility by an air of eagerness and importance, or by a feigned attachment to pleasure, he believes himself the happiest of men*.' Who will not at once admit the applicability of this portrait to an English Lord, if for 'eagerness and importance' be read 'indifference and nonchalance'?

It is probable that the English aristocracy as little dreamed of any ill likely to result to themselves from the increase of aristocratic literature, as the French monarchy did of consequences dangerous to itself from its toleration of the literary and philosophical discussions that for some years preceded its fall. The unquestioned despotism of Louis XIV and his successor, looked upon literature and its votaries, their labours and their squabbles, with as much indifference as a wild boar might look upon the tiny operations of a nation of ants that had happened to settle near his lair. What were their petty manœuvres to his boarship? It did not occur to his august intelligence, that in time the political creatures, as Hobbes after Aristotle quaintly terms them, might undermine his den and overwhelm him in the rubbish. As time and civilization rolled on, the more piquant performances of the men of letters were elevated to the level of those of opera-dancers and singers, and began to be viewed as a pleasant instrument of excitement. The nobles patronized poets and philosophers, as their ancestors had kept fools or jesters, and pretty much, it must be allowed, on the same footing. And what was to be expected from this state of things? What were the feelings of those poets and philosophers towards their munificent patrons? Did they feel duly grateful and humble? Instead of this they felt their degradation with an intensity incomprehensible to the common herd of men. Even Voltaire with all his success and his laurel crowns, at times suffered keenly from this. It drove Rousseau into insanity, as it had done Tasso before him. And verily they have had their revenge.

Ten years ago, the despotism of the English aristocracy seemed as firmly established as that of Louis XIV when the star of his prosperous fortune was in its dazzling zenith. They had enriched themselves by a war, the most expensive in which

the country had ever been engaged, but which had terminated in a manner highly advantageous to themselves. The general who had conducted the war, was their own. Everything that had opposed them was prostrate in the dust, and the sovereigns of Europe were banded together to establish them, as Strafford wrote to Charles I, 'in wealth, strength, and glory, far above any of their progenitors.' No wonder that, like the war-horse in the book of Job, they said ha! ha!—or put down with a stroke of power, any unhappy wight who dared to lift the hand or wag the tongue against them.

In this plenitude of power, or in other words in this possession of every earthly pleasure, the English aristocracy could find little more for their hearts to desire. They were clothed in purple and fine linen, and fared sumptuously every day and every night too. Their palaces and their houses exhibited every luxury that the planet on which they dwelt could supply. Their armies covered the earth, their navies swept the ocean. All that the world possessed of rich and rare, of gorgeous and beautiful, to tempt the appetite and delight the eye, to gratify the senses and feast the imagination, was theirs. All the inventions of science, all the resources of art, contributed to their enjoyment. The most industrious and ingenious people the world had ever seen, was toiling from morning to night and from night to morning, to procure them new pleasures, to produce for them new improvements in the arts of luxury. And the blaze of military array and the terror of military renown were added, to enhance to their aristocratic souls the zest of the cup of pleasure, and the smile of beauty.

There was yet one element of their happiness, one ingredient in their cup of prosperity, that must not be passed over. They had a state-religion, which though it professed self-denial as the very essence of it, and forbade unlicensed carnal pleasure under the penalties of an eternity of carnal pain, was dear to them as the very pleasantest of their vices. There was a pungency of pleasure indescribably refreshing to a faded appetite, in revelling amid forbidden joys under the very eyes of the hierarchs of the church that forbade them. It was true, the strict text of their creed, was explicit in regard to respect of persons. But *there* were the living commentators to expound the paradox. No man for a moment disputed their authority; and here was evidence that the very Omnipotent had become aware of their merits, that he saw they were 'not as other men,' that they were not made of the common clay of the earth. The ascetic precepts of their holy and cherished religion were undoubtedly 'good—very good,' for men at large;—and 'so help them God,' they were

ready to die for them. But then, interpreted to the letter, they were clearly intended only for the 'lower orders.' They were of the opinion of Madame la Maréchale de Meilleraye*, that with respect to persons of their quality, God 'thinks twice before damning them.'

Thus for time and for eternity they were supremely blest. Monopolizing the pleasures of earth, they had also bespoken a reversionary interest in the joys of heaven. The consequence of all this was that they were on good easy terms with their God. Not that they approached him with the vulgar familiarity made use of towards him by such worshippers as Mr. Edward Irving. They showed their high-breeding, they carried their usual refinement of manners into their intercourse with the Deity. In fact they evidently regarded him as one of the 'better sort of people,' though not strictly belonging to the 'exclusive circles.'

Amid all this it might have been well supposed that human thought could have devised nothing that might add to the delicious ecstacy of their voluptuous dream. Nevertheless there was one thing wanting. It was not enough for the Roman exquisite, that he was undisputed master of the ancient world, and could do what he liked with the property and persons of its inhabitants. He must display himself before them, not only as chief priest, chief lawyer, chief captain, chief executioner, but also as chief jockey, chief gladiator, chief play-writer, chief actor, in a word, chief mountebank in the empire. Even so it was with the lords and ladies of the British Empire. It was not sufficient for them to sneer among themselves at the monsters who travel in stage-coaches or *proh pudor!* in omnibuses, who sit on 'hard black horse-hair sofas,' and are invited by 'individuals in corduroys and cotton stockings,' to 'a red leather case of greasy bottles, containing red lead, genuine toad-stool ketchup, and other condiments essential to the fried soles of the curious in fish sauce,'—who drink 'sour sherry from dirty decanters,' and, most heinous offence of all, pay four-pence per volume to the nearest circulating library, for the trash far worse than sour sherry, concocted by 'persons of quality' and called fashionable novels. But they must strike with admiration and awe the grovelling souls of these wretches, by talking to them (save the mark) of the magnificent mansion in May Fair 'with its Etruscan cornices and Vitru-

* 'Great doubts of the salvation of Prince Philip, a great sharper and debauchee, who was just dead, having been expressed in her presence, "I assure you," said the Maréchale, very gravely, "that with respect to persons of that quality, God thinks twice before damning them."—*Nouveaux Mémoires de Dangeau*, p. 82.

vian mouldings, its Parian and gold-veined marbles, its jasper pedestals and columns of porphyry, its Flemish school and Italian school, its Phidian gallery and Canova vestibule, its Gobelin tapestry and Venetian pier-glasses,' of the 'Venus of Medicis standing in her appointed niche, the Venus of Thorwaldsen sporting amid the roses, and many a nymph, and many a beauteous saint, and many a goddess smiling from the lofty walls;' by describing the 'Tournay carpets, and silken ottomans of her ladyship's boudoir;' by telling them of 'roads illuminated with the blaze of their patent, self-reflecting, self-protecting, metallo-spheroido carriage lamps;' and that their very menials, the *servi superbi* of *maxima quæque domus* 'live on venison and pine-apple.' They must tell that section of the world that purchases gentility at 4*d.* a volume,—how a duke dresses,—how his towels are provided,—how his back is supported while a boy puts his legs and feet into silk stockings and velvet shoes fastened by mother of pearl buckles;—then how he dines,—how he feeds on ortolans, and sips champagne and burgundy, eschewing beef-steaks, and that 'fiery vinous decoction called port.'

But *quem Deus vult perdere prius dementat*. Accordingly, with all this, they let out something more than prudence would warrant. For they told at the same time how the said duke covets his neighbour's goods, and among the rest, his wife;—how he craves, like Catiline, after other people's wealth, and is wasteful of his own;—how he is without feeling for his fellow men, and reckless of the misery of which he is himself the cause. They proclaimed to the world, that they are bad sons, bad brothers, bad husbands, and bad fathers; that their consorts are bad wives and bad mothers; that their sons are crapulous, idle, and ignorant; and their daughters venal, frivolous, and heartless. They appeared to shut their eyes to the consequences of laying all this before the public; at least they overlooked the ultimate consequence, the injury to their class, in order to rivet their attention upon the proximate consequence, the gratification of their vanity. They hardly seemed to be aware, that while indulging their preposterous appetite for fame, they were exposing their vices to the public gaze,—vices that required only to be stripped of the aristocratic purple, to become the objects of public scorn or execration. If they now cut a sorry figure, they do it on their own showing. The fault is not the public's. It saw their political acts; it read their parliamentary harangues; it noted their occasional displays in the courts of justice. But it required something to complete the picture; and they have added that something. They have stripped the veil from their social

and domestic privacies; and the result has been to do more than their worst enemy could have accomplished, without the charitable co-operation of themselves.

ART. IV.—*Memoirs of Spain, during the Reigns of Philip IV. and Charles II. From 1621 to 1700* By John Dunlop. Author of 'The History of Fiction,' &c.—2 vols. 8vo. Edinburgh, Clark. London, Whittaker & Co. 1834.

THE History of the Spanish people during any period, can scarcely fail to be interesting to Englishmen. To the popular institutions which we have had reason—and may still have more reason—to hold dear, their government showed at one time a remarkable approximation; and in their baffled struggles to preserve the integrity and true enjoyment of these popular rights, and the consequences of their fall, we are enabled to have a view of the depths of evil, from which the persevering courage of men whose names have been often held up to scorn and abuse, has saved us. Instruction as to the past is only useful as it guides to the future, and at the moment when there is some prospect of the fallen Institutions of Spain being restored, the History of their fall and its evils, may be no unapt study to the people whose exertions have been hitherto crowned with better success. In those stirring incidents moreover, which give life and colouring to historical narrative, Spain has not been behind any other nation. Independently of the hue of romance with which its annals have been tinged by the tales of the Alhambra and its chivalry, they bear the more substantial recommendation of an almost unequalled train of acts of resistance by the people to arbitrary power, continued through a succession of struggles down to the days of Saragossa. It was in this land also that Europe first saw the chief magistrate subjected to the power of the laws he wielded, when the allegiance to one king was revoked by a solemn and formal deed of the people, and another was brought to trial in open court and publicly deposed.

The present work adopts for its subject a period of gloom and disaster, of which there are not many authentic memorials. So little indeed does the subject seem to have attracted the attention of historians, that except in the meagre narratives of Adams and Bigland, and in the Universal History, there could scarcely be said to be any English history of Spain during the reigns of Philip IV. and Charles II. For thus filling up the hiatus between the extensive works of Watson and Cox, the author has felt a deficiency of authentic materials, which he has

acknowledged, and has negatively admitted in the zeal with which he has snatched at illustrations from remote sources. With the exception of one or two trifling manuscripts deposited in this country, he seems to have scarcely had access to any state document connected with his subject; for the Spanish government carried to a royal extent the principle, but feebly imitated in this country, of preserving the acts of kings and statesmen hidden from vulgar eyes; while through the blessing of Providence the arm of the Inquisition was a much more effectual throttler of the press, than even the Act 60 George III and 1 George IV. c. 9. Hence it has happened, that the thread of the history is in general derived from Desormeaux and Ortiz, of whom the author acknowledges that the former 'cannot be relied on, either for candour, or for accuracy in the relation of facts;' or from the contemporary journal of Sini the Italian historiographer. In mentioning some of the Spanish books with which he has filled up details of particular parts, he finds it necessary to observe:—

'But it has been justly remarked by Varillas, that in all Spanish histories and memoirs, the columns are of porphyry and jasper; and while reading the works I have just mentioned, we are almost persuaded that they are the records of an age of splendour and glory, not of humiliation and decline.'

Those portions of the history which the author has perhaps derived from the most authentic sources, are connected with the intercourse between Spain and other nations, in which he has been able to quote such historians as Capmata, Clarendon, and Reboulet, or such memorials as have been left by Howel, Southwell, and Fanshawe. It is a natural consequence, that the most prominent and accurately detailed portions of the work, speak of subjects which are known from the histories of the other countries of Europe; and that on the causes of domestic events, the practice and workings of the Spanish government, and the manners and opinions of the people as connected with it, the narrative is not so full as to satisfy the reader. Besides the difficulties arising from deficiency of materials, the author considers that he suffers from the disadvantages of a subject, in which he has—

'only to record an unvaried train of disaster—the imbecility of kings—the corruption of courts—and the rule of worthless favourites naturally terminating in the utter prostration and ruin of a once noble and splendid monarchy.'—*Pref.* p. viii.

But at a time when narratives of battles and treaties, are beginning to make room for the history of incidents which tend

to teach the people the nature and effects of different sorts of government, the details connected with the downfall of the Spanish crown and nation, may not be less instructive or interesting, than the history of the rapine, tyranny, and fraud, through which the former rose. For one purpose indeed, the subject is peculiarly useful. Spain during the seventeenth century possessed one of the most perfect specimens of a purely bad government, which human ingenuity could frame. And as she possessed a Cervantes and an Ish,—of whom the one drew in useful caricature the extravagancies of chivalry, the other the pedantry of the clergy,—she may be said to have afforded in her government a solid and practical example to the rest of the world and to after ages, of the wonderful folly of aristocratic and monopolizing governments.

At the time of the accession of Philip IV, Spain may be described as a perfect despotism tempered by certain powers of doing evil which remained in the hands of the grandes and other nobles, lessening with the descending ratio of rank. The remarkable extent of popular power evinced by the manner in which the mercantile classes were represented in the Cortes,—proved to have existed in considerable vigour so early as the twelfth century,—had through the connivance of the nobles been completely crushed. Ferdinand had been no friend to the constitution of his united kingdoms, but it was reserved for the Emperor Charles, assisted by the baneful privileges of the nobility and a lurking 'prerogative' which existed in the person of the monarch, to strike the decisive blow, and the popular constitution died in the midst of a loud but ineffectual murmur of the cities, whose list of grievances, uncensored by the nobles, was met with silent contempt. After the destruction of the popular influence, Spain was a formidable power. It carried on vast wars, it gained victories, and the dominions of its king were scattered here and there over the globe. Philip II. possessed Spain, Naples, Sicily the Duchy of Milan, the Netherlands, and 'the Indies,' while his influence among many of the Italian States was almost monarchical. Intolerable despotism drove the United Provinces to a successful revolt, but an equivalent was almost at the same moment found at the capture of Portugal with her Indian Empire. At a period, too, approaching to the commencement of her disasters, Spain had got the hurling warrior Spinola to overturn the Palatinate, and was still a great and powerful nation. Such was the situation of the governors, but very different that of the governed, whose homes were not cheered by the victories and conquests of kings. Their murmurs, however, were drowned by the

shouts of victory. Foreign nations and historians could not see the misery which lurked behind the splendour of the throne. It was not till armies were beaten, territories were ceded, and a French king threatened to overrun the country, that the court became involved in the poverty of the people; supplies were then wanted, and could not be procured. In this portion of the history of Spain, there is an additional fact to prove, that it is only during the career of victory and plunder, that a despotic or aristocratic nation can be great. The proper livelihood of such a government is gained by robbery; for monopolies, commercial restrictions, and general slavery, prevent it from supplying itself with the sinews of power at home. Hence when misfortunes commence, in such a government, there seem to be no limits short of ruin. A frugal and popularly governed state measures its ambition by its means; for every one connected with the government has the fruit of his labour or skill at risk, which is more valuable to him than glory. There is no man or body of men, in whose persons are concentrated a greatness and splendour, to the support of which all other interests must yield. Where such a concentration of glory exists, in the person of one or of a few, everything must be prosperous, every battle must be a victory, royalty and nobility must be above disaster. It was in this spirit of boastful confidence, that the Morescos, the most thriving and industrious portion of the population, were driven from the kingdom. Actuated by it, Philip assumed early in his reign the agnomen of 'Great.' Olivarez dreamed of nothing less than universal empire; and after one defeat had followed another, the kingdom was to be like Rome in its declining days, still imperial, and the bearer of Eagles, which even when the historians lamented 'that the barbarians would not permit them to be taken back to the Imperial City,' were still to be 'the victorious.' But in the commercial policy of the country, were exhibited the most rare instances of this spirit.—

'In every country,' observes Mr. Dunlop, 'there is an epoch of exhaustion as well as of excitement, and in the political constitution, no less than in the bodily frame, the period of depression quickly follows on that of excitation.'

This is a species of sentence which has been common with historians, from the time when something of the same kind was 'profoundly' observed by Gibbon; though the explanation is possibly of a homelier nature than is imagined. If a man has quickly made a fortune, and then, sets about the spending of it with all expedition, he will have excitement enough in the spending, and probably depression enough when he finds he has nothing left; but it is his own fault, and if he had

acted differently, the event would have been otherwise. So in the case of a nation, if the inhabitants may do what they will with their own, and are personally prudent, there is no reason why its gains should depart; and the cause of the depression of the Spanish nation will be found, not in any fixed vegetable law of fructification and decay, but in the pride of its rulers, who squandered in war or show the wealth which had been gained, and would not allow any more to be made by commerce and industry.

‘Though Spain had thus sunk, in the space of a few years, the causes of its depression may be traced through a much longer period, and may even be found in the æra of its augmentation and prosperity. Their influence was not felt at the moment, but they were in early operation, and a canker was gnawing the root, while the branches seemed to spread in their most flourishing and palmy state. Spain had not enjoyed, but abused her strength; and if the maxim be just, that an immeasurable ambition is the ruin of nations, never was country better entitled to destruction. As early as the reign of Charles V. the kingdom had been emptied both of men and treasure, to support foreign wars, which were carried on for German interests, and which, though on the whole successful, conferred little benefit on Spain. These contests were followed by the less glorious, and still more sanguinary campaigns in the Netherlands. Such long protracted wars, with the prodigious armaments which were fitted out, and expensive intrigues and negotiations carried on in France and England during the reign of Philip II, drained the kingdom of its wealth. Even after that monarch had renounced the sovereignty of the United Provinces, the claim of the Infanta Isabella and her husband, the Archduke Albert, still required to be supported by Spanish armies and by Spanish gold.’—vol. i. p. 9.

The wealth so expended, no means were taken to restore. Spain in the days of her liberty had both commerce and manufactures; but these gradually sunk during the despotism, and the discovery of the gold-mines extinguished them. To possess money without labour, and thereby to form the apparent fountain-head of the wealth which is to be scattered abroad, has always formed one of the brightest visions of human ambition, and served to constitute the general distinction betwixt the *proceres* and the *plebs*. Such dreams the Spaniards founded on their mines, considering their country as a kind of aristocrat among nations, and one which was only to buy, while other nations sold. The Spanish colonies were remarkable for paying and enriching almost from the moment of their discovery. This, however, only continued while they plundered the natives of gold, or found it in the streams, and thereby procured it on better terms than other nations, who had to dig for it or buy it. They

were not to be expected to reflect, that if the precious metals continued to be thus lightly and abundantly discovered, they would cease to be that representative of wealth which the limited supply and the labour required for acquirement had made them. And after the gold was more sparingly supplied, the country came to consider it as a thing by far too precious to be put to use. In short, the precious metals were not to be an object on which capital and labour were to be laid out to advantage, but their bare existence was to make the kingdom richer than other kingdoms. They were to ornament the throne of the king, and the palaces of the grandees. In this view their exportation was prohibited; and the mountains of plate accumulated in the house of a grandee who could scarcely procure such a portion of the fruits of industry as a glass window, were no better criterion of wealth, than the gold ornaments on the naked inhabitants of St. Domingo, which had attracted the cupidity of the companions of Columbus. A few quotations referring to the magnificence and the poverty of Spain during the seventeenth century, will best illustrate this point. The following is a description of the display of greatness, at the reception of Louise d'Orleans the bride of Charles II. in 1680.

'The Queen mounted her horse which was a fiery Andalusian, about eleven o'clock of the forenoon. Her long hair fell loose over her shoulders and forehead. She wore a richly embroidered riding habit and a small faringal. Her hat was adorned with white and carnation-coloured plumes, and was tucked up on one side by a diamond clasp, whence hung the celebrated pearl called Peregrina, which was of inestimable value, and as large as a small pear. She bore on one of her fingers the King's chief diamond, which surpassed in size and lustre every gem in the world. But the grace displayed by the Queen in all her movements, particularly in the management of her steed, and the charms of her person, attracted far more admiration than the jewels, dazzling as they were, by which she was adorned. She was now in the first bloom and radiance of youth,—her aspect was mild and her mien graceful,—her eyes were black, large, and lively,—her eyebrows arched,—her lips rosy but somewhat thick,—and her hair, which she wore in great profusion, of a dark chestnut colour.'

'The drummers and trumpeters of the town, dressed in black and red suits, preceded the whole cavalcade; then came the Alcades of the court,—the knights of the three military orders, in cloaks embroidered with gold,—the officers of the King's household in white robes and hats studded with diamonds, and the Mayordomos of the Queen. These officers, who were mostly grandees of Spain, were all mounted on beautiful steeds, and were attended by their pages or grooms, in liveries of gold or silver brocade, mixed with

coloured silk. The equerries of the Queen walked on foot immediately before her ; the Count de Villa-Mayna, Chief Usher, was on her right hand, holding the horse's reins, and a canopy was carried over her head. The Duchess of Terranueva, who was the worst feature in the procession, was immediately behind her royal mistress, mounted on a mule, and dressed as a Duenna, with a terrific hat on her head. Eight of the Queen's maids of honour, some of whom were extremely beautiful, and belonged to the noblest families in the realm, next appeared, all covered with diamonds and embroidery, and mounted on fine horses,—each with two gentlemen of the court walking by her side. The Queen's coaches, and several caparisoned horses, which were led by grooms in magnificent liveries, went after them, and the guards of the Lancilla brought up the rear.' * * *

'For several successive days there was a continuation of all sorts of entertainments. Bullfights, the chase, and theatrical amusements, followed each other with little intermission. Sometimes the King and Queen went to sup with the Queen Mother, at her residence in the mansion of Uzeda ; while, at other times, she was regaled in the royal palace. All the ladies of distinction had the honour of kissing the Queen's hand, and the members of the Council of State were admitted to her presence to pay their duty and respect. During the whole course of the entertainments and festivals, the *grandees* vied with each other in the splendour of their equipages, and the number of their retinue. Several of them, during nine successive days, displayed nine different liveries, each more gorgeous than the preceding ; and they sometimes carried their jealous competition so far as to overset each others coaches in the streets.'—vol. ii. pp. 168-72.

The next passage refers more generally to the household expenditure of the nobility.—

'Almost every family could boast of an ancestor who had been Viceroy in Mexico or Peru, or in some other region of mines. Several *Grandees*, it is said, had 1,200 dozen of silver dishes, and as many plates, and a nobleman was thought very ill provided, who had not at least 800 dozen of dishes and 200 dozen of plates. These were generally ranged on enormous and lofty sideboards, to which the menials ascended by silver steps. The sideboard of the Duke of Albuquerque had forty silver ladders, and when he died in the middle of the 17th century, six weeks were fully occupied in weighing and taking inventories of the gold and silver vessels.'—vol. ii. p. 381.

Now follows the other side of the picture.—

'The present state of the national finances was the worst feature in the political aspect of Spain. As far back as the time of the Emperor Charles, the debt had become enormous, and difficulties had often been found in the payment of the immense armies which that monarch maintained. At the close of the reign of his successor, public credit was reduced so low, that the Genoese and other Italian merchants, from whom Philip II. had already borrowed largely, refused any further

advances. To remedy the immediate embarrassments and inconveniences that resulted from the deficiency in pecuniary supplies, the Duke of Lerma raised the nominal value of copper coin, or silver alloyed with copper, to that of pure silver. In consequence of this absurd and dangerous expedient, a quantity of counterfeit copper money had been poured into Spain by the neighbouring nations, who received for it silver in return. This state of matters continued during the reign of Philip IV ; and silver too was then raised above its former nominal valuation. Suddenly the present King [Charles II.] as we have seen, issued an edict, which diminished by two-thirds the value of the coinage of the precious metals, and altogether suppressed the circulation of brass or copper money. Foreigners thus obtained, at an undue rate, the copper coin, in which there was a considerable mixture of silver. They also purchased up the fine gold and silver species, which had been so much reduced in value, and exported it with advantage to other realms. All this perhaps might have been attended with no permanent disadvantage amongst an intelligent and industrious people, but the sudden depreciation of the metals proved fatal in Spain.'

'The public treasury early felt the dangerous and never failing consequence of tampering with the currency. The Spanish ministry was now continually harassed by the demands of foreign Ambassadors, for debts which had been long due to their masters. A special messenger arrived from the Elector of Brandenburg, to seek repayment of several large sums which had been advanced in loan to the King of Spain during the French war. The court amused him for a long while with promises and the most paltry remittances. At length, however, he procured an assignation to the value of 50,000 crowns in bullion, which was shortly expected to arrive from America. He accordingly set out for Seville, in order to obtain it. But the Council of Commerce in that town had already received private instructions not to deliver over the bullion. The German emissary returned to Madrid much chagrined at his disappointment, and justly indignant at the treatment he had received. He renewed his applications, which all proved as fruitless as his former instances, and then, by order of his master, quitted the capital of Spain, protesting in the strongest terms against the breach of faith that had been committed, and threatening the court with the resentment and hostility of the Elector and his allies. A gold chain, worth about 100 pistoles, was presented to him on the eve of his departure. But he returned the paltry gift as an affront and insult to his master. The Elector afterwards carried his threats into execution, and having hired a squadron of privateers, overpaid himself by the seizure of a Spanish vessel, loaded with treasure, which his ships encountered at sea near Ostend.'

'The Ambassador of the Seven United Provinces demanded a special audience of the King, in order to solicit payment of a large sum, which had been due to them by the crown of Spain since the year 1675. Charles gave the usual answer of '*Veremos*;' but, in the evening he sent for the Duke of Medina-Celi, to whom he said, that

he had never known of so much debt where there was so little money to pay it; and he declared, that if this state of embarrassment continued, he would shut himself up in his palace and give audience to none of his creditors. The Duke contented himself with replying, that matters would shortly assume a totally different aspect, and that in the mean while, the Dutch were rich enough to wait some time longer for reimbursement.'

'An emissary of the Duke of Savoy had for four years solicited payment of the subsidies which had been promised, and were now due to that Prince; but all his efforts to obtain a settlement proving ineffectual, he quitted Spain in disgust. The envoys of several other states took their departure for similar reasons; and those who remained, only stayed in order to persecute the ministry with their claims, and to complain of the violations of faith to which the Spanish government was in some measure compelled by the deplorable state of its finances. The Ambassadors of Spain at foreign courts were in consequence insulted or neglected, and privileges formerly conceded to their character were now withdrawn.'

'Nor were the claims of its own subjects better attended to by the Spanish government than those of alien princes. The troops deserted on the frontiers for want of pay, and at Madrid the soldiers of the royal guard deserted daily to the convents, and struggled there with the crowd of mendicants for a morsel of the charitable distribution doled out at the gates. Officers of the army and governors of fortresses quitted their duty and employments, in order to urge at Madrid in person, those claims which they had hitherto in vain represented by letters or memorials. The Marquis of Balbo, and several other Italian officers from Naples and Milan, who had been long at Madrid attempting to procure payment of what was due for their military services, were obliged to return home without having attained their object; and no excuse was offered by the court for this conduct, except the extreme poverty in which it was sunk.'

'But not only was the crown unable to satisfy these large claims, or fulfil its more important engagements. Such was the inconceivable penury to which it was reduced, that it was found as difficult to procure 50 ducats as 50,000. Money could thus be no longer raised for the most pressing occasions, however trifling might be the cost. Couriers charged with urgent and important despatches on affairs of state, were often unable to quit Madrid, for want of the funds necessary to defray the immediate expenses of their journeys. Some officers of the royal household having waited for payment of what was due to them, as long as they could without absolutely reducing themselves to beggary, peremptorily demanded their dismissal, and were only retained by force and menaces. All the grooms, however, belonging to the royal stables, who had not received their rations or wages for two years, contrived to escape from their service, and the horses remained for some time uncurried and unfed. A table which had been kept up at the King's cost for the gentlemen of the bedchamber, was now totally unsupplied; and money was even frequently wanting to

defray the daily expenses of the board of a monarch who was master of Mexico and Peru! The household of the Queen Mother, which had hitherto been maintained at its full establishment, now began to feel the effects of the general destitution. The rations provided for her domestics were withheld; and on lodging their complaints at court, they were told, with a sort of Cervantic humour, that the royal coffers were now all standing open, and they might come to supply themselves.'

'The Marquis of Grana, who had recently been appointed the Austrian Ambassador to Madrid, was much distressed at the misery of a court so closely allied to his master. He publicly declared, that it far exceeded anything of which he had formed a conception, and that he would not have accepted so painful a situation, if he had believed that it existed to the extent he now discovered.'

'In this wretched state of penury, it will readily be believed that the court learned with the severest regret, that a sum of 200,000 crowns which the Viceroy of Naples had amassed with the utmost difficulty, had been seized on its voyage by eight galley-slaves, who were part of the crew of the felucca in which it had been embarked, and who having taken possession of the vessel, sailed with their plunder to the coast of Africa. The Viceroy received an order from Madrid to replace the sum thus lost, by mortgaging the revenues of the royal domains in Italy, but no one would advance funds on such security.'

'Scarcity of money, dearness of provisions, and want of employment, produced discontents, and at length open insurrections at Madrid, and in other parts of Spain. The masons, who had been a numerous class of tradesmen in the capital, and were dying of hunger, began to rob and murder the wealthy inhabitants, in order to supply their more pressing wants. As their crimes remained unpunished, they soon increased in numbers and audacity. They at last assembled in great multitudes in a remote part of the city, and resolved to break open and plunder the houses of several magistrates, whom they accused as the authors of the present misfortunes. The shoemakers about the same time, in consequence of some unpopular regulations concerning the price of their articles of trade, congregated in a tumultuous body in the court of the Palace. They crowded under the windows of the King's apartments, and vociferated with all their force the formidable cry of "*Viva el Rey y muera el mal gobierno.*" As soon as the King heard them he came to the balcony, and was in the utmost astonishment and alarm at beholding such an assemblage of people, whose numbers too were every moment augmenting. His Majesty sent for the President of Castile, who by his orders entered into a treaty with them, promising redress of all their grievances, and permission to sell shoes at whatever price they chose. The shoemakers immediately proclaimed this privilege by sound of trumpets in all the most public quarters of the city. Perhaps the concession thus obtained might be suitable enough in itself, but it was of evil precedent, and soon gave rise to demands by tradesmen, which were obviously unreasonable, and were enforced by renewed disturbances. The police was utterly inade-

quate for the protection of the inhabitants. Murders were committed in the face of day with impunity. Bravoes with swords at their sides, or daggers in their hands, swaggered through the open streets and squares of the capital, disturbing the public peace, and setting at defiance the officers of justice. The more wealthy inhabitants almost daily received threatening and anonymous letters, enjoining them to deposit money in particular places indicated to them, under menaces of poison or assassination.'

'But, in fact, those usually considered as the more wealthy classes, were in no better situation than the lower orders. After having pledged their jewels and plate, they found themselves without effects or credit. In many quarters of the kingdom, such was the scarcity of coin, that, as a medium of exchange, cattle were given in barter for grain, and one sort of cloth for another. The bankers had no cash, and the merchants no merchandize. Some deputies who arrived at Madrid from the Council of Commerce at Seville, represented that their once flourishing and populous city was reduced to one-fourth of the number of inhabitants which it had contained about fifty years ago. In several parts, indeed, of the kingdom, particularly in Andalusia, such was the misery, that many persons daily died of hunger. On hearing of this last consummation of wretchedness, the King was much affected, and declared to his minister that such a state of things could be no longer endured. But as usual, he received some general assurances of amendment, and the distresses, for the time, were no more thought of.'

—vol. ii. pp. 220-6.

The kingdom in the course of this process, had the fortune to be assisted by a congenial ruler in the prime minister Olivarez. History has unfortunately shown that despots are not all born with powers equal to support their rule; and when one of the caste is too weak in intellect, or too young, or too old, to endamage the destinies of a nation in his own proper person, his power of doing evil is transferred to some deputy, who from his persevering plausibility, the recommendation of a priest or mistress, a superexcellently ornamented doublet, or a fine person opportunely exhibited by a fall from a horse in the royal presence, may be determined to be a fit and proper person to rule the destinies of a nation. Olivarez was one of three remarkable men, who at the same period ruled the councils of three young princes, and might be said to hold in their hands the destinies of Europe. Of these, Richelieu, who defied his king, slew the royal favourite Cinque Mars, imprisoned the Duke of Orleans, and held a similar fate over Anne of Austria, was undoubtedly the boldest man and the best governor. The object of his vast exertions was to be the prime minister of a great and powerful nation; and he would not have committed an act of cruelty, or plunged the nation in war, for a mere breach of courtly etiquette, or to support the pride of a stately name

without more solid advantage. With Olivarez, the greatness of his master's country and his own station, were things given; what he had to find, at any cost to mankind, was the means of making them acknowledged. As to the third, the '*formosus Alexis*' Buckingham, his qualities for becoming a minister were of that inscrutable kind, which apprehensions like that of his master are alone capable of appreciating and explaining. Buckingham and Olivarez had an opportunity of becoming acquainted with each other during the celebrated sojourn of Prince Charles at the Spanish Court, but then cordiality did not improve on their intercourse, and all Europe felt the effects of their distaste. As the Lord Keeper Williams sagaciously remarked to James, 'If my Lord Marquis will give honour to the Count Duke Olivarez, and remember he is the favourite of Spain, or if Olivarez will show honourable civility to my Lord Marquis, remembering he is the favourite of England, the wooing may be prosperous, but if my Lord Marquis shall forget where he is, and not stoop to Olivarez, or if Olivarez, forgetting what guest he hath received with the Prince, bear himself like a Castilian grindee to my Lord Marquis, the provocation may cross your Majesty's good intention.' The event was much as the Lord Keeper had predicted, the prime ministers quarrelled about precedence of coaches, and the right to sit in the neighbourhood of the real presence of royalty. Buckingham insulted Olivarez, and Olivarez retorted with cold contempt; and such was the effect of the clashing of these high spirits in the mysterious affair of the Spanish and English match, that some authors have given them the credit of having effected its abrupt termination, with all its consequences of wars abroad, and acrimony at home.

The first act of Olivarez on becoming prime minister, was to disperse the adherents of his precursor the Duke of Lerma, and with a decided infraction of the moral principle which speaks of honour among thieves, to put to death Rodrigo de Caldeon, because he had acquired more than his due share of plunder, and rivalled the new Premier in pandering to the vices of the Prince. It seems to have been the practice for each successive minister of Spain, to go through the forms of some great act for the amelioration of the country, and Olivarez accordingly issued a Rescript to the different provinces of Spain, 'requiring the magistracy of each district to collect information concerning the causes of the distresses of the country, and to communicate such advice accompanied by their reasons, as they should judge most useful,' but like a Parliamentary Commission, the project stopped with inquiry.

It fell to Olivarez, immediately on his accession, to direct for a period the Thirty Years war. A truce of twelve years with the United Provinces having expired, Spinola was ordered to besiege Beigen-op-Zoom, but the great Italian was baffled, and a count which calculated on victory as its natural right, gave him few thanks for his exertions. This was followed by the siege of Breda, and after receiving the imperious direction '*Marques sumaris Breda*,' a protracted, desolating, and expensive siege compelled the famished garrison to surrender. It was at this period that Olivarez chose for the glory of the kingdom, and with a view to establishing a Spanish authority over the whole of Italy, to commence those disputes with France, which continued with little intermission till a Bourbon sat on the throne of Spain. On the succession to the Duchies of Mantua and Montferiat being opened to a French subject Charles Duke of Nevers, the Spanish government resolved to support the pretensions of Ferdinand Duke of Guastalla, the representative of a more distant collateral line. In furtherance of this project, it was thought necessary to besiege Crasil, and Gonzalo de Cordova having been found incapable, Spinola was appointed to succeed him in the government of Milan, and the conduct of the siege. The enterprise was difficult, but Spinola had earned the hatred of Olivarez by criticizing his policy; and the minister, instead of supplies suited to the execution, sent only reproaches and petulant commands to accomplish his will more speedily. Spinola had at first opposed the project, but having once commenced the siege he resolved vigorously to pursue it, and when on the eve of victory, a cessation of arms determined on without his consent, deprived him of what he conceived the reward of his exertions. Disgust and disappointment brought him speedily to the grave. Among the nobles of Spain, Olivarez found men whose genius was less able to rival the splendour of his own station, to succeed the brave Genoese, and the authority of Spain speedily sunk in Italy, while Prince Frederic Henry soon drove her troops from the United Provinces. Richelieu was at this time anxious for an opportunity of commencing a decided war with Spain, whose minister had diligently furthered the domestic dissensions of France. It had been his first design to coalesce with the Dutch, but Olivarez did not long withhold from him a more legitimate cause for war in favour of a Roman Catholic Prince. The Elector of Treves having detached himself from the Catholic Alliance, and placed himself under the protection of France, a body of Spanish troops entered the city of Treves, cut the garrison to pieces, and carried the Elector prisoner to Vienna. Under the Cardinal Infante, the war was for

some time carried on with success, and Olivarez directed the invasion of France in three different places. The capital of France was for some time considered in danger, but the good genius of Olivarez came to its assistance, and the Spanish army was not provided with supplies sufficient for the enterprizes so readily planned.

'During this season,' says Mr. Dunlop, 'when the Cardinal Infante was left without pay for the support of his troops, and was unable from want of supplies either to prosecute advantages or ward off attacks, the most enormous sums were lavished at Madrid, in celebration of the election of Ferdinand King of Hungary, as King of the Romans. The festivals lasted forty-two days, during which there were incessant exhibitions of dances, comedies, masquerades, bull-fights, cane-plays, and all sorts of follies.'—vol. i. p. 197.

But if the supplies were insufficient for the conduct of the war, it was managed that they should press heavily enough on the nation. The French having directed their efforts towards the frontiers of Spain, took the fortress of Salsas in Roussillon. To procure assistance to recover it, forcible levies were made in the usual spirit of Spanish arrogance, in the neighbouring province of Catalonia.

'You not only,' says Olivarez in a letter to the Viceroy, 'doubt of the success of the siege, but talk of raising it. This, in my estimation, would be the greatest dishonour that could befall the monarchy, and consequently the most sensible affliction I could myself suffer. As I have written at full length on this subject to the Marquess of Balbases, I shall only say in reference to the want of forage and provisions, which begins to be felt in the camp, that if you especially, and all his Majesty's other officers in the principality, as also the nobility and corporations, do not compel the inhabitants to bear to you, on their shoulders, all the corn and fodder which can be anywhere found, you will fail in the duty you owe to your King, to the blood which flows in your veins, and to your own preservation. If the privileges of the province can be reconciled with the maxims I inculcate, it may be well to respect them; but if they occasion one hour's delay, I shall publicly proclaim, that he who stands on them is the enemy of God, his lineage, and his country.'

Again:—

'If the pioneers do not chuse to come voluntarily, compel them, though you should lead them tied and bound. Though they should exclaim against your proceedings, though they should threaten to stone you, let not that deter you. Give disgust and offence to all without scruple. I will be responsible for whatever you do. I shall not concern myself provided Spain preserve her honour, and that we are not scorned by the French.'—vol. i. p. 206.

This, added to a predatory excursion by the court for the

purpose of collecting 'voluntary' supplies, roused the Catalomians to disaffection. In 1640, Olivarez proposed to abolish certain privileges enjoyed by the Catalomians, for the purpose of equalizing taxation through the country. The principle was not a bad one, but the change was made by simple royal authority, and the first step towards its enforcement was the seizure of a fund at the disposal of the city of Barcelona, and the imprisonment of a member of the municipal incorporation who remonstrated against the act. Remonstrances were the first fruit of these measures; but when an insolent soldiery pillaged the towns and devastated the fields as those of a conquered country, and the viceroy refused to allow the claims of the pillaged inhabitants to be pleaded in any court, the province burst into a ferocious rebellion, conducted on both sides on a system of treachery and extermination. This division afforded a footing to the arms of France, during that degrading war of which even Clarendon could speak with disgust, and which could only find a congenial memorialist in Count Anthony Hamilton, to whom the thousands sacrificed in the trials of skill between Condé and Turenne, were a subject for pleasing discourse.

The Revolution of Portugal was another effect of the policy of Olivarez. On a principle successfully imitated in modern times, he sedulously treated that country as a conquered province. All offices of consequence were bestowed on Spaniards, or on those natives who in exchange for preferment sold themselves body and soul to the interests of Spain; and all supplies derived from the country, were employed on subjects peculiarly Spanish. It is not intended to enter on a detail of this well executed revolt, but it may not be impertinent to seize a passing moment, to record one opinion in favour of a prince, who seems scarcely to have met with justice from historians, — John of Braganza, King of Portugal. Because he did not readily yield to the solicitations of an intriguing servant and an ambitious wife, he has been accused of pusillanimity. The success however with which he finally conducted the conspiracy, and warded off the treachery of Olivarez after it was completed, show that he neither wanted courage nor discrimination; and as the same writers have recorded his answer to the solicitations of his wife, that 'he would willingly venture his *own* life for the liberty of his countrymen,' it may be admitted that in one instance a prince was found unwilling to pass to the throne over the bodies of his fellow men.

It was with difficulty that Olivarez, after having so far consummated his unpopularity that it reached the ear even of the king, could be dismissed; as he contrived to banish the subject

from the royal intellect, by a persevering succession of exhibitions, journees, and field sports. At length he was driven with ignominy from the court, but he left one more mark of his brand, in the renowned revolt of Naples which shortly followed. The kingdom of Naples had fallen into the hands of the kings of Aragon, at a period when the term 'balance of power' was unknown as a cloak to royal incapacity, and the system of administering its government, rendered it a fit field for displaying the worst form which a revolution can assume. It is needless to detail what have so often figured in history,—the clamours of a people rendered wild by a system of despotism which prevented their forming any conception of the nature of civil freedom, or of a government based on its principles;—the acts of deception and treachery which aided the system they had groaned under, in driving them on to outrage,—the bold prompt man, ignorant, naturally hot-headed, and speedily intoxicated by the enjoyment of power, whom their depraved appetites chose as a not unnatural exchange for the hereditary madness and folly which previously ruled over them,—the dark attempts of the power *de jure* to strike at the power *de facto*, by those legitimate instruments of tottering authority, hired assassins and armed robbers,—the final insubordination, and caricatured imitation of his predecessors, of the extraordinary mortal so singularly elevated, and the expert and successful efforts made to cheat the people out of everything for which they had stipulated.

Olivarez having been dismissed, and according to practice having undergone persecutions which he did not long survive, Philip anticipated Louis XIV, in declaring that he should in future act without a minister. He found it however somewhat difficult to keep his resolution, and finally adopted Don Louis de Haro, a nephew of Olivarez. This minister seems to have possessed few remarkable qualities of any kind; but in him the Spaniards were at least relieved from the pride and tyranny which distinguished his uncle. He had the merit of perhaps saving the country, by negotiating the peace of the Pyrenees and the marriage of Louis XIV with the Infanta, and as an acknowledgement of the gratitude of his wearied countrymen, received the since memorable title of 'the Prince of the Peace.'

Philip IV. was succeeded in 1665 by his son Charles II, an infant, only old enough to give satisfactory evidence of that extreme mental and bodily imbecility which distinguished him among kings.

'After the proclamation, such was the debility of this royal infant,

that his demise was almost daily expected ; and till he was ten years old he was brought up in the arms and on the knees of the ladies of the palace, without ever having ever been permitted to put his foot on the ground. His ceaseless wailings testified his bodily infirmities and sufferings, and alarmed his anxious subjects with the dread of war, an interregnum, or subjection to foreign dominion.'—vol. ii. p. 2.

So favourable an opportunity for cabals and court dissensions as the minority of this wretched king, was not thrown away. The queen dowager, Mary Anne daughter of the Emperor Ferdinand III, was by the will of Philip appointed regent, with a council of government, which held power according to the measure in which it approved her designs, and her designs were measured by the wishes of the court of Vienna. For her Austrian confessor father Nithard she managed to procure a seat in the council, and this ambitious jesuit, who seems to have known none of the duties of a statesman but insolence, became the ruler of Spain. The opposing interest was headed by the second Don John of Austria, a natural son of Philip, or presumed to have been so ; undoubtedly the brightest ornament of Spain at that period, and a man whose acquirements cast disgrace on those who were connected with the house of Austria by surer and more legitimate ties. Very early in life, by a mixture of fineness and affability, he pacified Naples. He afterwards mainly assisted in subduing Catalonia ; and though not always successful, especially in Portugal and the Netherlands, he was the only general whom Spain possessed capable of being classed with Turenne, Condé, Schomberg, or Houdancourt. He was a man too of scientific and literary acquirements, and decidedly of abilities as a statesman, according to the lights which his country possessed. Before the death of Philip, Don John had been sent to an honourable banishment, and it was decided that he should have no share in the regency, but he soon founded a powerful party against the Queen and Nithard. Mutual accusations of the blackest crimes passed between the parties, and there is no doubt that those who could so readily accuse, were capable of commission.

The Queen accused Don John of an attempt to murder her minister, confiscated his revenues, and compelled him to fly. The terrors of the Inquisition were also employed against him ; but Aragon and Catalonia declared in his favour, and he finally expelled the jesuit, who being more ambitious for his order than for himself, formed a solitary instance of a Spanish minister chusing to retire from office a poor man. The Queen fed the ambition of Don John, and continued to keep him at the same time distant from the seat of government, by agreeing

to his being declared Vicar-General of the Crown, in Aragon, Catalonia, Valencia, the Balearic Isles, and Sardinia. She continued to rule a discontented people till the majority of her son, when it was generally hoped that Don John would be called on to head the government. But the Queen by protestations and tears preserved her power; and on his appearance at court, Don John was ordered to return to Saragossa. After the dismissal of Nithard she had been under the unlimited influence of Fernando Valenzuela, a favourite far more dangerous than Nithard, and possessing an influence more powerful than that of religion. The insolence of such a minion strengthened the influence of Don John, who finally prevailed over the feeble mind of the King. The Queen was directed to confine herself to her palace, and Valenzuela was ordered to leave Madrid. In not ill founded terror, he fled for protection to the sanctuary of the Escorial. There the foes of his administration hunted him, and after a search of several days found him concealed behind a pannel. The hiding-place he chose, is supposed to have saved him from the scaffold; as a dread was entertained of offending the Pope, who excommunicated the violators of the convent, and his enemies were content with forfeiting his treasure, sending him in chains to Manilla, and imprisoning his wife and children in a nunnery. Having satisfactorily annihilated his opponents, Don John entered on the government a popular minister, but did not long remain so. It was remarked that he too nearly imitated royalty, by allowing no seats to be placed in his chamber of audience for foreign ambassadors; and this important manifestation, added to the circumstance that the country was filled with spies, and that the king was kept in profound ignorance of his duties, gave him the reputation of an ambitious and tyrannical minister. To improve the condition of Spain, he probably found to be beyond the ability of his intellect; and disappointment working on his ambitious mind, is said to have produced his death.

The peace of the Pyrenes in the mean time, had done little to curb the aggressive propensities of powerful France. Although Louis on his marriage with the Infanta had renounced his right to any part of the Spanish succession; on the ground of peculiarities in the law of succession in that territory, he laid claim to the Burgundian estates. He did so with all politeness, waiting for the opinion of counsel, and unwilling to show how easily he could accomplish his wishes, until he gave the Spaniards a fair hearing. In the career of his victories, he was obstructed by the peace of Aix la Chapelle, and Spain

unwillingly acceded to a measure which allowed her to preserve the remainder of her provinces. Spain was again involved with France during the celebrated war of 1672, so disgraceful to England, and in which by a singular revolution, the Dutch and Spanish fought side by side. Bad government had now done its worst. The country had neither soldiers nor money.—

'At this period the resources of the Spanish treasury were exhausted, and the Government had no inducements to offer, which could compensate for the hardships and dangers of a military life. The inhabitants of Madrid would scarcely have discovered that the nation was at war, if they had not successively received intelligence of the loss of Franche Compté, of nearly the whole Spanish Netherlands and Sicily, as also of the total annihilation of their marine'—vol. II. p. 83

In 1678 Louis captured Ghent, and opened to his troops a road through the dismembered Spanish possessions to Antwerp. Ypres fell immediately after, and the Spanish were everywhere beaten except at Messina in Sicily, where the French disgusted their allies the revolted natives. Even after all these disasters, however, the pride of the Spaniards would not allow them to depart from the conditions of the treaty of the Pyrenees, or even to accept terms founded on that of Aix la Chapelle. They were gratified however in contributing to the treaty of Nimeguen an ambassador excelling all the others in splendour, and with great difficulty, and not till the Dutch deserted the war, were they persuaded to accept a peace which saved their country from dismemberment.

Spain again purchased a little tranquillity by a marriage. In 1679, Louise d'Orleans, made the entry into Spain, of which the magnificence is above described. Of the difference in manners between the French and Spanish court at that period, a curious picture is presented, in the change which this princess underwent. Young, beautiful, and high-spirited, in the midst of a glittering court where she was the observed of all observers, and aspiring at the time to the hand of the Dauphin, she felt bitterly the political necessity which made her the companion of a bigoted imbecile, and transferred her to his sombre palaces, where words were seldom uttered, and solemn gravity ever prevailed. Her reign began with an uncomfortable supper, and the still more uncomfortable presence of the Duchess of Terranova (the same that made herself so conspicuous in the procession by her terrific cap), who in virtue of her office as *Camuera Mayor*, was as much mistress of the queen, as the queen was nominally mistress of Spain. The queen was not allowed to visit, or admit visitors. There were grave doubts on the subject of her right to look out

of window; she was prohibited speaking in French, and as she did not know the Spanish language, her conversation was very limited. The particular time at which she should retire to bed, was fixed by certain laws, and when she accidentally forgot them, her maids of honour brought them to her recollection by a better observance of time than place. She was not left however entirely without enlightened amusements. She attended a bullfight, at which two men were conspicuously killed, and an *Auto da Fé* was got up for her special gratification. She was still, however, surrounded by a barrier of form, which prevented vulgar hands from touching her sacred person, even for the salvation of her life.

‘The amusement in which she was most frequently indulged, was the privilege of accompanying the King to the chase. His Majesty had presented her with a spirited steed from Andalusia; and a circumstance which occurred one day when she had mounted it in the court of the palace, displays, in a striking point of view, the ridiculous forms established at the palace of Madrid. The animal having begun to rear, the Queen fell from her seat, and her foot having been entangled in the stirrup, the horse dragged her along. Charles, who saw this accident from the balcony of one of the palace windows, became motionless from terror. The court at the moment was filled with guards and grandees, but no one dared to run the hazard of assisting her Majesty in this peril, as it was a species of treason for any one to touch the person of a Consort of Spain; and, which one would hardly expect, it is a more heinous offence to touch her foot, than any other part of her body. At length two Spanish cavaliers, Don Louis De Las Torres and Don Jayme de Sotomayor, resolved at all risks to save their Queen. The former seized the bridle of the palfrey, while his companion extricated her Majesty’s foot from the stirrup. Having rendered her this service, they went home with all possible expedition, and ordered their steeds to be saddled, that they might fly from the resentment of the King. The young Count of Penaranda, who was the friend of both, approached the Queen, and respectfully informed her of the danger in which her preservers might be placed, unless she interceded in their favour. His Majesty, who had now come to the spot, listened to the entreaties which she offered up to him, and a messenger who was immediately despatched with a pardon to the cavaliers, reached them just in time to prevent their flight into a foreign land.’—vol. ii. p. 201.

The Duchess of Terranueva, however, at last carried her principles of Spanish etiquette beyond the bounds of human patience. The Queen’s dogs were kicked down stairs, and the necks of her favourite parrots twisted because they chattered French. The Queen finally applied to her husband to have the female tormentor removed from her situation.

'Such a proposition had never before been made in Spain, and the King after a long silence produced by the amazement into which he was thrown, answered, that there was no precedent for a Queen changing her Camarera Mayor Her Majesty, however, replied, that he had shown her so many marks of kindness of which his predecessors had left no example, that she counted on obtaining this favour also Charles then consented, but he warned her to be careful in her choice of a successor to the Duchess, since any future change would be altogether impracticable.'—vol II p. 206

During the transaction of these important matters, there were several competitors for the premiership left vacant by the death of Don John of Austria. The Duke of Medina del Rio-Seco, Admiral of Castile, was inconsolable because he had reached the age of fifty-eight The Prince of Stigliano, was remarkable for so great an amount of indolence, 'that though he had places and commissions to dispose of to the amount of 20,000 ducats a-year, he refused to affix his signature to the requisite documents, saying 'it was not suitable to the generosity of so high a grandee to trouble himself concerning so small a matter.' The Duke de Ossuna was remarkable for his gallantry, and so was the Marquis of Liche, one of whose recommendations also was, that had he not been interrupted in the career of building, his mansion would have rivalled the palace in magnificence. It is interesting to know that the qualifications of all these great men yielded to those of the Duke of Medina Celi

The Duke afterwards fell before the influence of the Count Oropesa, who attempted some ineffectual financial reforms, while in the meantime Louis XIV found himself strong enough to declare war, on the ground of certain conditions in his favour, which he alleged were omitted to be inserted in the Treaty of Nimeguen. Spain for once admitted the necessity of suing on unequal terms for a peace, which was concluded through the mediation of the Dutch. She was still however insulted by France, until the League of Augsburg, to which the country was finally a party on the death of Louise d' Orleans, and the marriage of the King with Mary Anne of Neuburg. But even when united with sturdy allies, Spain being the weaker portion, bore the weight of defeats without realizing the advantage of victories, and the Count of Melgar, who succeeded Oropesa in the government, actually consented to a partial dismemberment of the Spanish empire, for the preservation of Spain. In the peace which followed, Spain was indebted to the prospects of succession which were opening to the Bourbon family, for the good terms which she obtained

Soon after the Treaty of Ryswick, the King, who had no children, began, at an age which had not reached forty, to show symptoms of premature decay, and the greedy eyes of the European princes were fixed on his inheritance. The balance inclined for some time in favour of the Prince of Bavaria, but the Prince died, and the question was again open for the decision of the imbecile monarch,—a decision which was to fix the particular leaders under whom the nations of Europe were to range themselves in a general war. The respective accomplishments of the Ambassadors of France and Austria, were at first thrown into competition with each other, and the interest of the Queen in favour of the latter, was balanced by the affability and adroitness of the former. But darker systems were afterwards followed. Aided by priests, a disgusting series of incantations, for which the wretched state of the king's body and mind formed a pretext, were attempted by the French party, and the narrative of the intrigues that followed, is so full of minute acts of personal villainy, that an abridgment would give little conception of the singular nature of the details. Charles II. finished his useless life in November 1700, a month after the execution of a will, of which for many years the widows and the fatherless in the remotest corners of Europe, dearly knew the effects.

The inference from all this, is only a brick from the mass of evidence which history has piled up all over the world, of the worthlessness, wretchedness, and contemptibleness of monarchical government, wherever it has not been diluted by the control of popular power, to an extent that left little more for prerogative to do, than

— ‘— in his cage, like parrot fine and gay,
Be kept to strut, look big, and talk away’

The English Tories have insisted upon stirring up these questions, after everybody thought they had dropped by a kind of common consent. If there was once a Stuart prerogative in England, there was a splendid Republic too, and the fools that rehoisted the one at the fore, by the same act ran up the other at the mizen. It remains for the political classes which are amidstships, to consider whether they will not quash this ‘monkey business’ by hauling down the rag of offence, on condition that the other shall disappear along with it.

ART. V. *Curiosities of Literature* By J. D'Iraeli, Esq D C L F S A.
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Dover Street. 1834.

THE wisdom of all ages, from the highest antiquity, has compressed and communicated its lessons in short compendious sentences, which were readily received and easily retained. Stamped with the authority of sages, mankind gave a wide circulation to them, and their universal currency proclaimed their value. 'A word to the wise sufficeth.'

But it was not only on account of their intrinsic merit that 'the dark sayings of the wise' met with popular reception. They were not unfrequently invested with the charms of poetry, or at least, of rhyme, but whether in prose or verse, their effect was often heightened by a hidden meaning being couched in words of which the literal import was insignificant. Thus the English proverb, 'As good never the whit as never the better,' is more calculated to arrest the attention than the dry oriental maxim, that to be content with a little is to be rich.

There is no passion of the human mind which appears to have affected mankind more universally than the love of the mysterious. It has been played on by the crafty in all ages, to subject to their thralldom the uncultivated mass. The mysteries of Mithras, of Isis and Osiris, the Eleusiniun and Samothracian rites, the secret revels in honour of Bacchus and Cybele, the hidden orgies of the Druids, the dark fables of the Parca and the Wend Sisters, the solemn wand and mask of the sorcerer and the magician, the occult jargon of the alchemist, the feathers and bones of Obeah and Mumbo-Jumbo, and the gibberish of the fortune-teller, have been only so many too successful inventions for tampering with this infirmity of human nature. But like others of our weaknesses, this one has been made available for good by those who sought to benefit their fellow creatures. The solemn ceremonies by which the Persian and Egyptian youths were admitted into the conclaves of the priesthood, attracted the wise as well as the foolish, and often were the commencements of lives to be devoted to pursuits foreign to the habits of the mass of the people. As much interest is excited by Stonehenge; by the pyramids and the ruins of Thebes and Palmyra, by the remains of the masterpieces of Grecian architecture, which were constructed under the direction of priests for the celebration of Pagan rites, as by the adoration of a crocodile or of the funes, or the immolation of human victims in honour of a dæmon. So in all countries mysterious language was employed as the most attractive

medium for the conveyance of moral truth. The testimony of all ages and of every nation, proves the popularity of parables and fables. Shorter maxims, comprehending much instruction in few words, and carrying their own evidence with them, were admirably adapted to direct the conduct, without overburthening the memory or perplexing the mind with abstract reasonings; and couched in metaphorical terms, which were rendered the more inviting by the brevity of the expression, they have always retained the firmest hold on the memories of the common people.

Proverbs have therefore been aptly termed, 'The wisdom of nations.' In many parts of the world at the present day, especially where books are wanting or are in the hands of few, the national rules of moral guidance are chiefly taught by short and pithy sentences, not to be understood literally.

The Hebrews inculcated moderation by the adage 'A camel going to seek horns, lost his ears.' The Greeks taught the suspicion which should attach to a companionship with the bad, by the proverb *Αλεὶ κολοῖός πρὸς κολοῖον ἰζάνει*—'Daw roosts with daw.' The Latins reproved presumption by 'Sus Minervam,' and the English by 'Teach your grandmother to suck eggs!' The Gaelic saying, 'It is not easy to straighten in the oak the crook that grew in the sapling,'—and the Irish, 'A wild goose never laid a tame egg,' were warnings against trusting men of suspicious origin. The Spaniards showed the necessity of calculating the consequences of an action, by the proverb, 'Non se toman truchas a bragas enxutas,' People do not catch trouts with dry breeches.

A large proportion of the Oriental proverbs is composed of lessons of morality and prudence, many of them showing great shrewdness of observation; such as the Persian adage, 'Never speak well or ill of yourself; if you speak well, you will not be believed; if ill, it will be thought that you have not told the whole.' In Galland's collection there are a number of striking sayings, of which the following may be taken as a specimen. 'If knowledge without religion were estimable, nothing would be more estimable than the devil.'

The doctrines of the Druids were not reduced to writing, but preserved by oral tradition; and when the Druidical priesthood was extirpated, their lore was lost, excepting the few vestiges which may be collected from the songs of the bards, and the proverbial Triads of the Cymri. Each of these Triads, as the name imports, contained three facts, precepts, or definitions. Some of them related to law, others to history, to composition, morals, &c. The historical Triads record that the

first colonists of Britain were the Cymri, who came from 'the Summer Land,' or Tauric Chersonesus. Thence they have left many traces of their name, preserved by ancient authors; among which may be instanced the 'Cimmerian' Bosphorus. The arrival of subsequent colonists from the neighbouring continent, at various times, is noticed; as well as the arrival of the Romans, and Saxons, and partial settlements of the Gwvdelians from Ireland. The following are other specimens of the Triads; which are often remarkable for sagacity, and knowledge of human nature.

'The three qualifications of poetry.—Endowment of genius, judgment from experience, and happiness of mind.

The three foundations of judgment.—Bold design, frequent practice, and frequent mistakes.

The three foundations of learning.—Seeing much, suffering much, and studying much.

The three foundations of happiness.—A suffering with contentment, a hope that it will come, and a belief that it will be.

The three foundations of thought.—Perspicuity, amplitude, and justness.

The three canons of perspicuity.—The word that is necessary, the quantity that is necessary, and the manner that is necessary.

The three canons of amplitude.—Appropriate thought, variety of thought, and requisite thought.

These Triads so nicely come within the definition of proverbs; but they are illustrations of that love of condensation which distinguished the earliest teachers in all nations. Similar triplets existed in the Gaelic, and Cornish. In Pryce's Cornish grammar several are given in rhyme, of which the following is one.

Au hvar koth yw lavar gwir
Na boz nevra doz var au tavaz re hir
Bez den heb davaz a gollaz i dir.

'The old saying is a true saying. A tongue too long never did good; But he that had no tongue lost his land.' In a letter from Mr. Lhuyd, the keeper of the Ashmolean Museum, he states that he had this from the clerk of St. Just. It will be observed, that this Cornish triplet is in rhyme, and that there is that repetition of sound in the lines which is to be found in many proverbs of different nations. 'As grave as a gate-post,' and, 'As lazy as Ludlam's dog that leaned his head against a wall to bark,' had little to recommend them to notice beyond the alliteration. 'Secret de deus, secret de Dieu, secret

de trois, secret de tous,' had the charm of sense as well as sound.

Camden called proverbs, 'concise, witty, and wise speeches, grounded upon long experience, containing for the most part good caveats, and therefore most profitable and delightful' Johnson's definition of them is, 'short sentences, frequently repeated by the people.' This definition is too vague. Taking the etymon *proverbium*—*pro* and *verbum*—it will be better to term them, pithy sayings supplying the place of discourses. This nearly corresponds to the title of the Book of Proverbs *ἡμῶν* signifying both Comparisons, and Authori-

tative or weighty sayings, an allusion to the Greek *κρίται δόξαν*. The pithy quaintness of old Howell, as Mr. D'Israeli says, admirably described the ingredients of an exquisite proverb to be, sense, shortness, and salt. A proverb is distinguished from a maxim or an apophthegm, by that brevity which condenses a thought or a metaphor, where one thing is said and another is to be understood. This often produces wit, and that quick pungency which excites surprise but strikes with conviction, and this gives it an epigrammatic turn. George Herbert entitled the small collection that he formed, *Jacula Prudentum*.

No people have been so famed for the pithiness of their adages as the Spartans. Their locutions were as peculiar as their courage, so that Lysimondas had some reason for congratulating himself, that he had compelled them to speak at length.

But proverbs have not been confined to the mere teaching of morality, though that appears, from the earliest specimens of them now extant, to have been their primary destination. They have also been employed extensively to embody the results of observation and experience, to express approbation or dislike, and the same indirectness of expression has been generally preserved, upon the principle that sometimes 'the longest way about is the shortest way home.'

Many precepts for the guidance of the husbandman were couched in proverbial language. The old Cornish saw, 'A crooked token in the morning, rain is in it,' conveyed the same truth with the English rhyme,

A rainbow in the morning
Is the shepherd's warning
A rainbow at night
Is the shepherd's delight

The proverb, of which every year's experience testifies the truth,

Evening red and morning grey,
Are the signs of a fine day ;

is in France

Le rouge soir et blanc matin,
Font réjouir le pèlerin.

References to the particular rainy winds are to be found in the proverbs of all nations. On the course of the seasons, scores exist in England, such as,

If the grass grow in Janiver,
'Twill be the worse for 't all the year.

When April blows her horn,
'Tis good for both hay and corn.

Drought never bred dearth in England.

and the like.

The wiser sayings were often imitated in absurd terms by those among whom they circulated ; and thus an additional host of proverbs, resulting partly from another passion of the human mind, the love of the ludicrous, equally operative with the love of the mysterious, have obtained as wide a spread as the gravest maxims, and at least as strong a hold on the affections of mankind.

Some proverbs appear to have been of almost universal acceptance ; the same being found literally, or nearly so, in many nations. 'When the steed is stolen shut the stable door,' is in Scotland, 'When the steed's stow'n steek the stable door.' The love of alliteration is remarkably displayed in each of these proverbs. In France it is, 'Il est temps de fermer l'étable quand les chevaux en sont allés.' In Italy, 'Serrar la stalla quando se han perduti i buovi.' And among the Spaniards, the Romans, and the Greeks, there are found the equivalents, 'Despues de ydo el conejo tomamos el consejo ;' 'Quandoquidem accepto, claudenda est janua damno ;' and *μὲν πόλεμον ἢ συμμαχίᾳ*.

Similar instances might be adduced, to show the frequent occurrence of the same truth having been taught in different countries, clothed in various figures.

Some are to be met with both in the proverbs of Solomon, and in the pages of the classic writers ; who in all probability learned them from oral tradition. For instance, the Hebrew maxim, 'He that ruleth his spirit, is better than he that taketh a city,' Prov. xvi. 32, is identical with the well known line in Ovid, 'Fortior est qui se, quàm qui fortissima mœnia vincit ;' and is substantially the same with the lines in Horace,

Latiùs regnes, avidum domando
 Spiritum, quàm si Libyam remotis
 Gadibus jungas, &c.

But this exactness is not always found to exist. The spirit has often been preserved, where the expression has been changed. The Turk says, 'There is a devil in every berry of the grape;' a Welchman, 'The barley corn is the heart's key.' The Italians reproved a boaster with, 'Molti parlan di Orlando, chi non viddero mai suo brando,' and the English with, 'Many speak of Robin Hood, who never shot with his bow.' The French saying 'Quand on parle du loup, on en voit la queue,' is in England, 'Talk of the devil and you'll see his horns.' The Welch saying, 'He escaped Cluyd to be drowned in Conway,' is in Holland, 'Van de mal in de sloot vervallen,'—To fall from the bank into the ditch.

Proverbs have been invariably cast in the mould of the people. Their structure has depended on the genius of the nation which employed them. With an agricultural race, references to the seasons, to the products of the fields and the gardens, to the labours and festivals of the farm and of the harvest, and to the implements of tillage, will be most frequent. With a warlike people, battles and sieges, combats by sea and land, fortifications, camps, challenges, parleys, 'the pomp and circumstance of war,' victories, processions, and triumphs, will furnish the aptest materials for their proverbial imagery. Where the heroic ardour has been extinguished by the sway of a hierarchy, the proverbs of the people will teem with allusions to the priesthood, their rites and ceremonies, their holidays, fasts, and penances.

The varieties of religion and of government, of public and domestic economy, of manners, climate, and other national and local peculiarities,—the objects and circumstances by which the people were surrounded, and their imaginations affected,—were seized on by the inventors of proverbs, as the best calculated for the materials of their figures,—as the best adapted quickly to strike the apprehension and to make a lasting impression. Ages before the days of Pope, the thought had passed through the minds of philosophers, 'How can we reason but from what we know,' and the weight they attached to it is seen in the stamp of the adages they composed. Thus, traces of manners and customs, and points of historical curiosity, which would otherwise have long since been consigned to oblivion, have been preserved for centuries; and national resemblances and affinities have been traced by means of proverbs, where every other clue to their discovery failed. As

an instance of the last it may be mentioned, that striking analogies between the ancient Hindoos and the Druids, are said to be discoverable in their 'dark sayings.'

Galland states, in the advertisement to '*Lcs Paroles remarquables, les Bons Mots et les Maximes des Orientaux*,' (1694), that the sayings of Genghiz Khan and Ogtai Khan, prove that the Tartars and Turks preserved the same genius, and were grounded on almost the same customs, with those which Quintus Curtius and other ancient authois had described as belonging to the Scythians.

From the proverbs of a people may be learned the chief peculiarities of their moral and physical state,—not only their 'wit, spirit, and intelligence,' as Lord Bacon says, but their customs, domestic avocations, and the natural scenery by which they were surrounded.

The Hebrews said, 'He that is bitten by a serpent is afraid of a rope,' where the English say, 'A burnt child dreads the fire' and the Latin adage was, '*Piscator ictus sapit*,' in allusion to the torpedo. The Hebrews said, 'The poor man turns his cake and another comes and takes it away.' Another Eastern saying is, 'Death is the repose of the poor,' and the Bergleses say, 'He who gives blows is a master, he who gives none is a dog.' But the old French rhyme denoting the dependence of servants, only says,

A passage et a rivière
Laquus devant, maître derrière

A forcible illustration* of the difference between the relative positions of masters and servants, in Europe, and among the Asiatics.

To assign a date to the invention of a proverbial saying, is an almost hopeless task in the large majority of instances. For this, two reasons may be assigned. The one, that human nature having been the same at all times, in every part of the globe, modified only by circumstances, and proverbs being the condensed results of observation of human nature in the abstract, that which is true of one people, is generally true of another when placed in similar circumstances. The Latin adage, '*Vexatio dat intellectum*,' might be employed in China or in Lapland. The Italian, '*I frutti proibiti son più dolci*,' would suit the Peruvians or the Hindoos. The French, '*Pas à pas on va bien loin*,' is a counterpart to the ancient Cornish '*Cusal ha teg, sirra wheage, mo iz pell*,' a literal translation of which, 'Soft and fair, sweet sin, goes far,' is as common in Britain and North America, as it is appropriate in Australia or at the Cape.

The other reason is, the portable form of proverbs, which adapted them for communication from one people to another; and, as a language is enriched by words borrowed from others, so the stock of proverbs of the people received additions from their neighbours. Even a particular custom, which at first sight may seem to identify a proverb referring to it with the nation in whose language is found the saying, may have been of very general adoption, and have given rise to parallel expressions in other countries. Thus in *2 Kings* 10. 15, it is stated, that when Jehu met Jehonadab he said, 'Is thy heart right as my heart is with thy heart? If it be, give me thy hand.' This was an oriental pledge of protection, such as Bruce received from the Sheikh in the desert, when the hands of all were joined while the head of the tribe pronounced his curse on any one who should injure the traveller. This custom is alluded to in the book of Proverbs, 6. 1. 'If thou be surety for thy friend, if thou hast stricken hands with a stranger' &c., and in Prov. 11. 21. To strike or join hands, appears in Ockley's History of the Saracens (Vol. i. p. 36) to have been in use in the East as a mode of pledging allegiance. But the same custom held in other nations, as well as among the Asiatics. Thus Nestor complained that the Trojans had violated the engagement which they had sanctioned by libations of wine, and by giving their right hands, καὶ δεξιὰς ἤς ἐπέπλεον; *Il.* 2. 341. The feudal ceremony of homage was performed with the hands of the vassal joined to those of the lord; and the 'En dextra fidesque' of Virgil (4 *Æn.* 597) is the 'right hand of fellowship' of the English, with which bargains are daily 'struck.'

The Spaniards, Mr. D'IIsraeli says, in reference to the antiquity of their 'Refranes que dicen las viejas tras el fuego,' 'Sayings of old wives by their firesides,' assign them a date before the existence of any writings in their language, from the circumstance of their being in the old romance, or rudest vulgar idiom.

The greater number of our own proverbs are couched in words derived from the Saxon. In many cases we seem to have borrowed from our neighbours, as they from us. Between a considerable number of the French and English proverbs a great resemblance in spirit and idiom may be observed. 'Près de l'église loin de Dieu;'. The nearer the church the farther from God. Many were no doubt imported with the Normans and their successors, and, after being dressed in the garb of the country, obtained currency among the native population.

This will account in a great measure for the coarseness which often distinguishes the English proverb from its French parallel. Courtiers employed the one, peasants the other. Thus,

Ce qu'on apprend au ber (berceau)
On le retient jusqu' au ver ,

is in English, 'What's bried in the bone will never be out of the flesh'

Some sayings refer to customs and times of which there is no accurate historical knowledge. 'The days of King Lud.' *Le temps du Roi Guillemot*

There is a curious Hebrew proverb, 'Whoever hath a divided beard, the whole world will not prevail against him.' This is explained by the custom among the Jews of wearing beards, and the division of it, which is to be productive of so much good to the wearer, merely implies reflection. A thoughtful Jew, instead of having his portrait taken in the attitude of Pope, with the everlasting forefinger eternally displayed on his forehead, would have been drawn with one half of his beard grasped in each hand, and his eyes fixed on the ground.

'After dinner sit awhile, after supper walk a mile,' is advice unfitted for the meridian of London in 1855, but when our ancestors breakfasted at six, dined at eleven, and supped at four or five, the advice may have been good enough, and it may still be valuable in remote parts of the country where something like the same hours are still kept.

Barrenness,—at least according to the Scotch saying 'It's a bare moor that ane gae's o'er and gets nae cow,'—may now be predicated of every heath in the country since the extinction of Black Moul, but a few centuries ago there was but little of such barren land within a ride for the Moss Troopers, to whom the French saying might have been applied, '*Les rois ont les bras longs.*'

'Like the Parson of Saddleworth who could read no book but his own,' is an old English saying, the name of the place varying according to the humour of the speaker, who merely used a definite for an indefinite to give the parson a local habitation and a name. There are to be found many instances of the gross ignorance which prevailed among the Romish clergy in old times, sufficient to account for the currency of the simile. In Wharton's *Anglia Sacra*, it is said that Louis, Bishop of Durham in 1318, was so illiterate that he knew neither Latin nor English. Considerable pains were taken to drill him into an acquaintance with the Latin forms that were necessary to his consecration, but he got through them, after all, with ludicrous awkwardness. Among the words to be repeated, was *Metropolitica*. When he came to it, he made several vain attempts at the pronunciation, and at last he

got over it by saying in the old French, *Scit pur dite*. In repeating part of the service, when he came to *In enigmat* he was again at a dead stand ; at last he said aloud, ‘ *Par Seynt Lowys il ne fu pas curties qui ceste parole ici escrit.*’

There may possibly be an allusion to benefit of clergy in another old English simile, ‘He stands like Mump Hazard who was hanged for saying nothing.’

The French have a proverb, ‘*Pour un point, Martin perdit son âne.*’ The explanation given by Blacker of this, is, that Martin the Abbot of the Abbey Asello, ordered the line

Porta patens esto, nulli claudaris honesto,

to be placed as an inscription over the gate ; but by the workman’s blunder, the point was misplaced, making the line,

Porta patens esto nulli, claudaris honesto.

The Pope, passing by, was so outraged at this apparently scandalous motto of Martin, that he deprived him, and gave the abbacy to another, who erased the offensive inscription, and substituted

Pro solo puncto, caruit Martinus Asello.

Asello in Italian meaning an ass, the French translated it as well as the rest of the sentence.

Many allusions to archery and falconry are found in the English proverbs, such as, ‘A bow long bent waxeth weak ;—A fool’s bolt is soon shot ;—A carrion crow will never be a good hawk ;—A goshawk bates not at a bunting ;’ &c. But our proverbs are of a very mixed character. England contains a rich mine of proverbial lore, in which it has been supposed may be traced the genius of the people. They are a mixed race ; and the national character partakes of the compound nature of their descent ;—it’s excellence, like that of the national pudding, consisting, not in one predominant quality, but in the union of several. Their proverbs possess a sprinkling of the rich humour and glowing imagination of the Spaniards, the refinement of the Italians, the prudence of the Scotch, and the delicacy and gaiety of the French. But they are not, as a whole, distinguishable by either of these two last characteristics. Their general aim appears to have been the attainment of the art of living wisely, prosperously, and happily. ‘Learning is better than house and land :—Better unborn than untaught :—If every man mend one, all shall be mended :—Kindness will creep where it cannot go :—As long liveth a merry man as a sad :’—are fair samples of old English proverbs. As most of this class are of comparatively ancient date, they have

been very properly termed the 'mother wit' of the country. But there are also discoverable among them strong marks of the doggedness and surliness, which stood sponsors when the English were named John Bull. 'A honey tongue, a heart of gall:—A scald horse is good enough for a scabb'd squire:—As I brew so must I bake:—Every man for himself and God for us all:—'—were convenient adages when a man wished to vent his spleen.

As the English national character might be judged of from their proverbs, so the calculating circumspection of the Scotch, the pride and grave humour of the Spaniards, the jealousy and shrewdness of the Italians, the wit and gaiety of the French, might have been surmised by some future historian, who should have possessed no other records of those nations than their respective stocks of proverbs. 'As the heart thinketh, so the mouth speaketh.'

The ancient Gaelic sayings show the people to have been melancholic, simple, and superstitious,—living enveloped in mountains and mist. One of their proverbs, 'One dog is the better for seeing another hanged,' bears a remarkable resemblance to the Hebrew adage, Prov. 19. 25. 'Smite a scorner, and the simple will beware.' The French employ a somewhat similar phrase, '*Battre le chien devant le loup.*'

Scotland is, in like manner, embodied in her popular sayings. The Scottish proverbs, (of which Kelly made a collection amounting to three thousand), are noticeable for their point, humour, and shrewdness. They are figurative, rustic, and predatory; often gross and indelicate in their allusions to diet and domestic habits,—so much so indeed, that though Kelly seems to have been little scrupulous as to the insertion in his collection of many which would now be deemed almost inadmissible in any discourse, yet he says that he was compelled to omit many on account of their impropriety; and they strongly indicate the local peculiarities of the country, and the thrift and keenness for which the inhabitants have been celebrated. Take for a sample of these latter qualities, from Sir Walter Scott, 'We maun gi'e our ain fish guts to our ain sea maws.'

The advice, to 'Count siller after a' your kip,' and the saying 'He that cheats me aincc, shame fa' *him*; but he that cheats me twice, shame fa' *me*,' are highly characteristic. The Scotch have often been influenced by their national adages. The proverb 'Ding down the nests and the rooks will flee awa,' gave an edge to the fury of the Covenanters and Cameronians, and insured the demolition of the architectural grandeur of the Romish Church in North Britain.

The story of Archibald Douglas, Earl of Angus, who obtained the name of Bell the Cat, from the memorable occasion on which he made use of the saying, is in the recollection of all. The question which provoked the celebrated reply, is found in the Italian, 'Appicci chi vuol' il sonaglio alla gatta', used proverbially. Many proverbs are merely short references to well known fables. The latin, 'Multa novit vulpes, sed felis unum magnum,' 'Sour grapes;' 'Beware the geese when the fox preaches,' are of this sort.

The Spanish proverbs are celebrated for their pith and humour, but they are more characteristic of the age of Cervantes and Gil Blas, than of the modern Spaniards. They are frequently severe on the gallantries of women, but generally replete with humour and good nature, and like those of Italy, teem with jokes on the fat monks, and have a sprinkling of satire on kings and governments, of which formerly the Spaniards entertained a lively jealousy. The following proverb tells it's parentage distinctly. 'Quien padre tiene alcalde, següno va al juicio,' He who has a father a judge, goes safe to his trial.

Cervantes makes Don Quixote say, 'I am of opinion, Sancho, there is no proverb but what is true, because they are all sentences drawn from experience itself, the mother of all the sciences.' The advice of the Knight to the Squire on his assuming the government of the Island of Buatania, is, 'Look you Sancho, I do not say a proverb is amiss when properly applied, but to accumulate, and string them at random, renders a discourse flat and low.' In England in like manner proverbs are held 'flat and low.' A man of fashion, says Lord Chesterfield, never has recourse to proverbs and vulgar aphorisms, and since the time his Lordship so solemnly interdicted their use, they appear to have withered away under the ban of his anathema.

But in the reign of Elizabeth, proverbs were even 'fashionable.' The speeches in the fourth volume of the Parliamentary History are full of them, from the mouths of the first men of the time. They were employed to drive the nail home in argument, and clench it with the strongest conviction. Aristotle had placed them among the undoubted testimonies of truth, and Quintilian had commended their employment on account of their veracity and success. It is not to be wondered at therefore, that they graced the speeches of Queen Elizabeth, of Lord Bacon, of Lord Coke, of Sir Walter Raleigh, of Sir Nicholas Bacon, of the Lord Keeper, and of the Speaker of the House of Commons, as well as those of 'the country gentlemen.'

Many of our ancestors had proverbs always before them.

They had them painted on their tapestries, stamped on the most ordinary utensils, on the blades of their knives and the borders of their plates, and they 'conned them out of goldsmith's rings.' In the reign of Elizabeth, one member of the House of Commons made a speech almost entirely composed of the most homely proverbs. Knavish tradesmen were then in the habit of swelling out their book debts with those who took credit, particularly with their younger customers. In a debate on a Bill against double payment of book debts, one of the members who began to speak, 'for very fear shook' and was silent. The nervous orator was followed by a blunt and true representative of the famed governor of Barataria, who delivered himself thus, 'It is now my chance to speak, and that without humming or hawing. I think this law is a good law. Even reckoning makes long friends. As far goes the penny as the penny's master. *Vigilantibus, non dormientibus, jura subveniunt.* Pay the reckoning over-night, and you shall not be troubled in the morning. If ready money be *mensura publica*, let every one cut his coat according to his cloth. When his old suit is on the wane, let him stay till that his money is on the increase.'—*Curiosities of Literature.* vol. v. p. 98.

The proverbs of Italy are often literal, and of the nature of maxims. They are full of subtle reflections on government and public affairs, the infidelities of women and princes, the rapacity of priests, and the tædium and deceitfulness of artificial life. They are the maxims of courts, society, and refinement, rather than the wisdom of the common people as exemplified in their daily employments and local circumstances.

The following proverbs are highly characteristic of the Italians. 'E padrone della vita altrui, chi la sua sprezza.—Chi non sa dissimulare non sa regnare.—Amor, la rognà, e la tossa, non si ponno nascondere.' Italian sloth had rendered necessary an addition to the latin 'Amor, tussisque, non celantur.'

German and Dutch proverbs have not contributed much to the bulk of the collections which have been made by Englishmen. Surrounding objects have given a diversity to some. Where we say, Out of the frying-pan into the fire, the Dutch have the nautical terror referred to by, Van de branding in de maalstrom vervallen. For, He let the cat out of the bag, they say, Hij laat den aap uit de mouw. The early intercourse with the East, familiarized the ape in Holland sooner than in other countries.

In the proverbs of all nations, a considerable number have been pointed with severity against women; and the nations most celebrated for gallantry have been the greatest offenders. In the popular sayings of the Italians, French, and Spaniards,

the women are the most bitterly reviled, and the most frequent theme of suspicion, and of apparent scorn and insult. The lion was not the painter.

'Salt from the sea, and ills from women,' is Italian. The Spaniards say, with less ill-humour, 'Beware of a bad woman, and do not trust a good one.' The French, with complacent vanity declare that, 'Un homme de paille vaut une femme d'or.' The English have some offences of the same kind to answer for. But the proportion which such sayings bear in our language to the whole number of proverbs is very small. A recent collector (Fielding) has said that 'nearly one-fourth of the continental proverbs include some insinuation against the happiness of the conjugal state, the veracity and constancy of women.' This is another instance of the elucidation of history by means of proverbs. Having been chiefly framed before civilization had insured to women the respect which marks the progress of refinement, these attacks are additional proofs of the barbarism of the early ages. The Persian proverb, 'Words are for women, actions for men,' is not to be wondered at as having currency in a country where women are bought and sold as if they were pieces of household furniture.

Many proverbial sayings have sprung from national and local jealousies. Thus, 'English pock-pudding' is a Scotch allusion to the national dish, a plumb-pudding, 'pock' signifying a poke or bag. This is paralleled in France by 'Jean Ros-bif,' and the English have neither been slow nor scanty in taking their amends.

In many of our counties there are proverbial sayings employed in not a very complimentary manner to their neighbours.

Buckinghamshire, bread and beef,
If you beat a bush, you'll start a thief.

The second line of this proverb is accounted for by the county having been in very remote times a forest and a harbour for thieves, until Leofstane, Abbot of St. Alban's, caused the woods to be cut down. The first line is obscure. Probably it was merely used for the sake of the jingle,

For, one for sense, and one for rhyme,
I think's sufficient at one time.

'The devil will not go into Cornwall for fear of being put into a pie,' referred to the Cornish predilection for pies of all materials, as squab-pie, herby-pie, pilchard-pie, mugetty-pie, &c.

'Stabbed with a Budport dagger,' means hanged; great quantities of hemp having been grown about the town.

'Essex stiles, Kentish miles, Norfolk wiles, many men be-

guiles.' The first part of this saying is supposed to allude to the numberless inclosures in Essex in former times, or else to the small bridges in the fenny parts of the county, called there *stiles*. Before the general introduction of turnpikes, the roads in Kent, especially in the Weal, were almost impassable. The bad character given to Norfolk, is thought to have had reference to the excessive number of attornies there, who in the reign of Henry VI were so numerous that in A.D. 1455 the Commons presented a petition against the grievance, stating, that when their numbers were few, '*Magna tranquillitas regnabat, parvaque tribulatio, seu vexatio, habebatur*,' and complaining that, owing to their increase, there had been stirred up suits, '*pro parvis transgressionibus, parvis offensis, et parvis summis de debito, * * * ex malâ voluntate et malitiâ, * * * in dictorum inhabitantium * * * vexationem multiplicem, damnaque*,' justifying the proverb, 'The more spaniels the more hares.' The statute 33 Hen. VI cap. 7 was enacted in consequence of this petition, limiting the number of attornies to six in Norfolk, six in Suffolk, and two in Norwich. It is but justice to those counties to say, that though the number of attornies at the present time in Norwich and Ipswich alone exceeds one hundred, there is no particularly litigious character attached to the inhabitancy.

'Hartfordshire clubs and clouted shoon,' is supposed to have been of London origin. It was a gibe at the rustics. Club is an old term for a booby.

The rhyming squib,

Deul, Dover, and Harwich,
The devil gave his daughter in marriage,
And by a codicil to his will,
He added Helvoet and the Brill,

is supposed to have been composed by some luckless wight who had suffered from the impositions practised at those places, as at most sea ports, on travellers, whether natives or strangers. The author who thus consoled himself in verse for the loss of his money, may probably have been a sailor or soldier, as Stroud, Rochester, and Chatham, were formerly known in the army and navy as 'Stave 'em, Rob 'em, and Cheat 'em.'

But the men of Kent were not without a rhyme of their own, of an opposite tendency.

A knight of C ules,
A gentleman of Wales,
And a laird of the north countree,
A yeoman of Kent,
With his yearly rent,
Will buy them out all three

A great number of gentlemen of decayed fortunes were knighted by Robert, Earl of Essex, in his expedition to Cales (Cadiz) in 1596; when he conferred that honour on sixty persons. For this he was blamed by Queen Elizabeth, as tending to bring the honour of knighthood into disrepute. When this rhyme was composed,—as every Welshman was undoubtedly a gentleman,—there must have been a great number of poor ‘gentlemen’ in Wales, as well as among the northern lairds, who had not then suffered any of their family to engage in commerce or trade,—to whom the Scotch themselves applied the proverb, ‘Bare gentry, braggand beggars.’

The former characters of many towns and places have been preserved by proverbial sayings.

Beccles for a puritan, Bungay for the poor,
Halesworth for a drunkard, and Biborough for a whore;

is of this class; as are also,

Sutton for mutton, Cashalton for beeves,
Epsom for whores, and Ewel for thieves.
Gray’s Inn for walks, Lincoln’s Inn for a wall,
The Inner Temple for a garden, the Middle for a hall.

The Gray’s Inn walks are not unfrequently mentioned in former writers. Howel, in 1621, writing from Venice, says, ‘I hold your Gray’s Inn walks to be the pleasantest place *about* * London; and that you have there the choicest society.’ About a century later, they are mentioned in the Spectator as a favourite place of public resort; but the new buildings—Verulam and Raymond—have much altered their aspect. Lincoln’s Inn is now more famed for lawyers than for its wall, which has been often surpassed by modern architects. The Inner Temple garden, and the Middle Temple Hall, still retain their ancient celebrity.

Braintree for the pure, and Bocking for the poor,
Cogshall for the jeering town, and Kelvedon for the whore;

and,

If Pool were a fish-pond, and the men of Pool fish,
There’d be a pool for the Devil, and fish for his dish;

are other samples of local spleen.

These district jealousies have by no means been confined to England. There is a curious parallel between the story which gave rise to the nickname ‘Wiltshire moon-rakers,’ and that which originated the saying in France; ‘Un gros âne d’Arcadie.’

* There were then few buildings beyond Gray’s Inn on the North and East. The Bloomsbury district is the growth of later times.

In Blacker's collection of French proverbs, he explains this, 'à cause qu'en ce pais-là on fit ouvrir un âne, qu'on accusa d'avoir mangé la lune, parce que son image disparut dans l'eau où il beuvoit au tems d'une éclipse.'

The wit of most countries bore hard on the Romish clergy, and constant references are found to their religious ceremonies.

L'habit ne fait pas le moine—'Tall' abbate tali i monachi;—The Spanish, Beware of an ox before, an ass behind, and a monk on all sides;—The nearer the church, the farther from God;—and, Reynard is still Reynard, though he put on a surplice;—are proofs that the laity were by no means unobservant of the failures of their spiritual guides. The Spaniards also have the proverb, *Trabajar para el obispo*; To work for the bishop, in the sense of, To get nothing for your pains.

Such proverbs as, *Il est du quatorzième Benedicite*—alluding to the fourteenth verse of the Canticle of the Three Children, 'Benedicite, omnes bestię et pecora:—Il donne une chandelle à Dieu et une autre au diable.—As the devil loves holy water:—&c., must evidently have been framed within the pale of the church of Rome.

Some striking expressions used by remarkable personages, have become proverbial from their association with the notable occurrences, the memory of which has been preserved by the employment of them. Plutarch relates of one of the Theban polemarchs, that in the midst of a convivial party, he received despatches relating to a conspiracy which involved his safety; but that he put them under the pillow of his couch with this remark—*Business to-morrow*. The delay cost him his life; and the Greeks perpetuated the recollection of the event by employing the words proverbially to reprobate procrastination. In like manner the saying of Apelles,—*Ne sutor ultra crepidam*.

Whether the saying, 'No one knows where the shoe pinches but the wearer,' was a proverb before the days of Paulus Emilius or not, may be uncertain; but it is well known in connexion with his name, as having been the answer returned by him to the relatives of his wife, from whom he was about to separate, though they were unable to discover in her conduct any sufficient reason to justify the contemplated divorce.

Many heraldic mottos may be found among proverbs. '*Aquila non capit muscas*,' is met with in Scotland, 'Eagles catch nae flees.' *Honi soit qui mal y pense*, must have been a proverb in the days of Edward III. The motto of the Lord of Mackintosh is the old saw, 'Touch not a cat but a glove.' The word *but*, in this motto, is the *Be-out* of Horne Tooke. [*Diversions of Purley*, vol. 1. p. 190.]

By following out the clue afforded by the connexion between proverbs and mottos, some assistance might occasionally be afforded in discovering the original habitats of families. That of Lobb, which about two centuries ago was of considerable note in Cornwall, bears the motto, '*Amor gignit amorem*;' which has led to the supposition that the family was of German origin, and that Lobb was '*Lieb*.'

Law maxims may also be adduced as other examples of proverbs. Lord Coke's definition of them is, 'propositions to be of all men confessed and granted, without proof, argument, or discourse.' 1. Inst. 67. '*Nullum medicamentum est idem omnibus:—Paria copulantur paribus:—Præmoniti præmuniti:—Quæ male sunt inchoata in principio, vix bono peraguntur exitu:—Necessitas non habet legem*;'—and many similar maxims, are to be found in law books. But though called '*maxims*,' they are no less '*proverbs*' than '*What's one man's meat is another man's poison:—Birds of a feather flock together:—Forewarned forearmed:—Like beginning like end:—Need hath no law*;' and others to be met with in every collection of English proverbs. A proverb in a learned dress is not less a proverb, though it may be disguised under the name of a maxim. '*Cucullus non facit monachum*.' The precept, '*Loquendum ut vulgus, sentiendum ut sapientes*,' seems not to have met with the approbation of the legal philosophers;—but, '*the greatest clerks be not the wisest men*.'

The most ancient laws probably consisted of nothing more than a small number of proverbs, comprising the few rules of justice and prudence, which were sufficient to enable the patriarchs of a tribe to decide the simple disputes which might arise in a primitive state of society. Where a nomadic life prevailed, the laws of property would be most simple. Priority of possession would invariably determine the right. The introduction of agriculture, and of the rights of inheritance, would increase the number of laws; but still, in thinly populated districts, they would be but few, and would continue to be embodied in short precepts. The complication of the interests of civilized society, consequent on the introduction and extension of commerce and the abolition of the restraints of the feudal system on the transfer of land, (which has rendered it now almost an article of commerce), have altered the external character of the laws of England entirely; and the maxims form but a very minute portion of their bulk. The Acts of the English Parliament from *Magna Charta* to James II. are comprised in two volumes, containing the laws of four centuries and a half; while nearly forty volumes have been filled with the public Acts alone of the

last 150 years. 'Nulli vendemus, nulli negabimus aut differemus rectum vel justitiam,' was thought a sufficient guarantee for the liberties of a nation in the thirteenth century; but a dozen skins of parchment must now be filled, to place as many miles of road under the guardianship of Turnpike Trustees.

The Philosophy of Proverbs is the subject of one of M. D'Israeli's dissertations. It is a theme which has been much neglected; though, in the simple collections which have been formed, the most abundant materials to work on may be found. The greatest practical admirer of them in late times was Dr. Franklin; whose 'Poor Richard's Almanack' probably conduced greatly towards the formation of the thrifty character of the North Americans. To his authority in their favour may be added that of Solomon and Plato, of Erasmus and Bacon, of Shakspeare and Cervantes, of Aristotle and Quintilian. To follow in the train of such men, and to expose to public view the mines of wisdom which are contained in 'old saws' and rusty adages, would be no unfit employment for the ablest pen and wisest head.

ART. VI.—1. *Report on Tea Duties. Ordered, by the House of Commons, to be Printed, 25th July, 1834.*

2. *A Letter to the Editor of the Courier Newspaper, upon the subject of the Tea Duties. By John Travers. Third Edition; with Additions and Corrections.—London; Effingham Wilson, Royal Exchange. 1834.*

THE purpose of the following observations, is, to render a concise account of the culture and preparation of tea; to describe the nature and extent of this highly important commodity, the chief bond of connexion between the empire of China with its population of 370 millions, and the rest of the world; and to explain the principles on which duties on it ought to be levied in this country.

The tea plant is a bushy evergreen shrub, which if permitted to attain its greatest natural size, will grow to the height of about twelve feet. In botany, it belongs, according to the artificial system, to the class and order Monadelphia Polyandria; according to the natural order of Linnæus it belongs to the Columniferæ; and according to that of Jussieu to the Aurantiacæ. It constitutes by itself a distinct genus, of which there is but a single species; the plants yielding the different kinds of black and green tea being in reality, according to the Chinese always and now according to the admission of European botanists, no more than perma-

nent varieties, the result of long culture, as is the case with many other plants useful to man. The leaves are alternate, on short thick channelled foot-stalks, of a longish elliptic form, with a blunt notched point, and serrated except at the base. To a careful observer, these characters will always serve to distinguish the tea leaf from that of all other plants, except one of the Camellias, the *Sesangua*; for the Camellias are of the same natural family, and indeed in China are not unfrequently used as tea.

The tea is probably an indigenous plant of China. This may be concluded, not only from its long culture in that country, but from its being found there in a wild state, and from the Chinese names for it having been borrowed by almost all foreign nations. These names are *Cha* and *T'he*. The first of these is the general term throughout China, and the last belongs to the dialect of Fokien. Most of the Asiatic nations have adopted the former, having received their knowledge of the plant by inland communication; and most of the European nations, their acquaintance with it having been derived directly from Fokien by maritime communication, the latter. The exceptions among Asiatics are the Malayan nations, and among Europeans the Portuguese. The plant has been cultivated in China from time immemorial, and its use is as much buried in fable, as that of wheat or barley, or the vine, in Europe or western Asia. As a branch of husbandry in China, it is at least as important as the culture of the vine in the southern countries of Europe. The latitudes in which it thrives best, are from 23° to 30° N, or from the sea on the south, to the great river Yang-tse-kiang on the north. The northern limits of its culture, however, extend much beyond that river, and there are, in fact, few provinces or districts of southern and central China, in which the tea plant is not extensively cultivated, at least for domestic use. The tea, like the vine, is cultivated on the sides of hills in preference to the plains. It is raised from the seed, and yields its first crop in from two to three years. Where the best teas are raised, the plant is carefully pruned, and prevented from attaining a height exceeding two or three feet. The production of good tea depends upon soil and locality, fully as much as that of good wine; like it too, the produce varies according to the care with which the crop is collected and prepared for use. The quality of the crop varies also with the nature of each season, like the vintage. From the same plant are commonly taken, in each season, four crops; a circumstance which is another cause of variety in tea as it appears in the market. The younger the leaves when taken, the higher flavoured the tea, and the

scarcer, and consequently the dearer, the article. The earliest crop is taken in the beginning of spring, just when the leaf-buds are opening; and the last crop in August, when the leaves are coarse, abundant, and deficient in aroma and astringency.

The green and black teas present a parallel case to the white and red grape, which yield wine of their respective colours. In both cases they are only varieties of the same species. The growth of teas of sufficiently high flavour to keep for a considerable time, and fit in consequence for exportation to foreign countries, was for a long time confined to two provinces, or rather to a few districts of those provinces, for in China provinces, in so far as extent and population are concerned, are extensive kingdoms. These provinces were Fokien, which yielded black tea, and Kiangnan, which yielded green; the southern boundary of the first being in about the 24th degree of latitude, and that of the last in about the 30th. Of late years, and in consequence of the great demand for teas in Europe and America, the culture of the plant for exportation has been extended to three additional provinces, namely, Canton, Kiangsi, and Chekiang, all lying between the 23rd and 30th degrees of latitude. The provinces which produce good tea for exportation, may in fact be described as the Bordeaux, the Burgundy, and the *Midi* of China. By far the best teas are still brought from the two original provinces, and the worst from the district of Woping in Canton.

In China, contrary to the universal usage of the other great despotisms of Asia, the soil is private property, and in consequence of the nature of the law of inheritance, and of the tyranny which hinders the accumulation of property, the land is very minutely subdivided, and the proprietors are little better than peasants or cotters, each with the assistance of his family cultivating his own farm. This of course applies equally to the tea districts as to the other parts of the Empire, and the tea is consequently cultivated only in small patches or gardens, not exceeding in extent the holding of an ordinary market-gardener among ourselves. The leaves are picked by the cultivator's family, and conveyed at once in a fresh state to the market, where they are purchased by a particular class of dealers, who dry them under a shed, and in this imperfect state of preparation dispose of them to a second and higher class of traders, who sort the teas according to their qualities, and after completing the process of manufacture pack them in chests, dividing them into lots of from 100 to 600 chests, which are known in the Canton market under the name of Chops, from their bearing the signet

or mark [in Chinese, *chop*] of the merchant who makes them up.

The tea arrives in Canton about the middle of October, and the busiest period of the trade extends from that time to the end of December. The commodity is conveyed for the most part by land carriage and by porters, and generally speaking, from distances extending from 400 to 700 miles; and the owners accompany it. The traders in green tea, amount in number to not less than 400. The dealers in black tea are less numerous but more wealthy. Both are in the habit of receiving advances to some extent from the *Hong* or security merchants of Canton.

In the market of Canton, the sorts of tea quoted for exportation do not generally exceed fourteen or fifteen in number, about eight of which are black and six green. They are as follow, with their respective ordinary prices.

Green.

			Taels per Pecul.
Twankay	...	...	24 to 28.
Hyson Skin	...	...	24 to 28.
Young Hyson	...	...	44 to 54.
Hyson	...	...	44 to 51.
Imperial	...	...	50 to 60.
Gunpowder	...	...	59 to 62.

Black.

			Taels per Pecul.
Bohea	...	...	12 to 15.
Congo	...	...	24 to 28.
C'ampoi	...	...	24 to 28.
Souchong	...	...	20 to 36.
Ankoi	...	...	20 to 24.
Caper	...	...	24 to 25.
Orange Peko	...	...	25 to 26.
Flowery Peko	...	...	50 to 60.

In round numbers one tael per pecul may be considered as equivalent to one halfpenny per pound, in estimating these prime costs. The terms under which the different sorts of tea are here described, are for the most part European corruptions, and sometimes misapplications, of Chinese words; but as they are of long established use, and perfectly well understood both by the European and Chinese merchant, they describe the commodities intended with sufficient accuracy for all practical purposes. The European nations however, do not among them-

selves uniformly agree in the use of these terms; thus, what the English and Americans call Hyson Skin, is called by the Dutch and Germans simply *Schin*; and what the two first call Young Hyson, is called by the last *Uim*. What the English call Imperial, is called by the Dutch, Germans, and French, Pearl tea, and by the Americans occasionally Gomee. The Russians moreover import, by their caravans, some teas altogether unknown by name or kind to the other nations of Europe except through them.

The highest quality of black tea is Peko, or more correctly, Flowey Peko. This consists of the early spring buds of the finest black tea plants, intermixed, as is commonly believed, with the flowers of the fragrant olive, which is discoverable in the form of small white particles. This, as will be seen by reference to the price current, runs up to the price of 60 taels per pecul, equal to 2s 6d per lb. The very same plant, in its second and more abundant crop, may yield Souchong at 36 taels per pecul, or 1s. 6d per lb. Its third crop may consist of Congo Campoi, or low Souchong, bearing no higher price than 10d per lb., and its fourth and last crop may consist of Fokien Bohea, worth no more than 15 taels per pecul, or 7½d. per lb. The coarsest Boheas in the market, which are rated above at 12 taels per pecul or 6d. per lb., are, however, frequently found as low as 5d per lb., and some very coarse teas used by the Chinese themselves, are cheaper than shoe leaves could be brought to market in this country. The lowest boheas of the Canton market consist of the refuse or sweepings of superior black teas, or of the inferior tea of Woping in Canton. It may be remarked, by the way, respecting this word Bohea, which is now applied by Europeans to the lowest denomination of black tea, that it was and still is applied by the Chinese to the finest description of it, that which grows on the mountain Vu-i-shan in the province of Fokien, as noted for its production of fine teas as the estate of Clos-Vougeot for its Burgundy, or that of Chateau-Margot for its claret.

Similar observations apply to the green teas, although the range of qualities and prices here is not so great as in the black. The difference between the highest and lowest quality of green tea, is not so much as in the proportion of two to one, while that between the highest and lowest of the black is as much as four to one. The highest quality of green tea, is Gunpowder. This consists of the first leaves of the vernal crop of the green tea plant. As it comes to us, it is not mixed with the flowers of any foreign plant, as Peko is; but such is the case with some of the finest green teas imported by the Russians, called Chulan.

Imperial, and Hyson, and Young Hyson, compose the second and third crops. The light and inferior leaves separated from Hyson by a winnowing machine, constitute Hyson Skin. The fourth and last crop constitutes Twankay, Singlo, &c. With respect to this last word, the same observation applies to it as to Bohea. Singlo, or more correctly Songlo, takes its title from a mountain of that name in the province of Kiangnan, where the finest green tea has been long produced.

China, although the only country in which tea fit to become an article of commerce with foreign nations is produced, is very far from being the only one which yields it. It is extensively cultivated for domestic use throughout the Japan islands, Corea, Tonquin, and Cochin China; that is, from about the latitude of 13° North up to 40°. By far the best of these teas is that of Japan, which however is not manufactured in such a way as will enable it to be kept for any length of time. The Dutch occasionally bring small quantities of it to Batavia. The tea of Tonquin and Cochin China consists of a large coarse leaf, which undergoes no other preparation than that of being dried under a shed. It possesses, contrary to what might be expected, so little aroma or astringency, that it is necessary to boil, instead of infuse it as is done with Chinese tea. In the mountainous parts of some of the northern portions of the Burman territory, where the plant, judging by its native name, appears to be indigenous, tea is cultivated for a use to which no other nation puts it. The leaf is preserved in oil and eaten as a dainty, pretty much after the manner in which European nations use olives.

The tea plant will thrive under the equator, that is, it will grow vigorously and produce flowers and fruit. It is found again blowing in the 40th degree of latitude, and it is a sufficiently hardy plant in the green-houses of Europe, up to the 50th degree of latitude. It might have been expected from this, that like the coffee of Arabia, it should long ago have been propagated in many regions of the new world, as well as in the settlements of the European nations in Asia. This, however, is very far from being the case, and after two centuries acquaintance with the plant, the production of it for foreign consumption is still confined to a few districts of its original country China. The fact seems to be, that, like growing the vine for good wine, the growing of the tea plant for the production of good tea is a matter of considerable uncertainty and difficulty. Except a few provinces of France, Germany, and the Peninsula, there are no countries which produce wines good enough, generally speaking, for a foreign market. A peculiar soil and climate, seem, in the first instance, indispensable to the successful culture of the tea

plant. These may, no doubt, be found without difficulty, but there are other indispensable requisites not so easily attainable, a skilful culture of the plant, and a skilful preparation of the leaf; and above all, a low rate of labour, to meet the numerous manipulations which the plant requires, especially in the gathering and manufacture. It is not likely that the culture will succeed, on this last account, in any of our colonial establishments, where it may be observed that neither the rearing of silkworms, nor the culture of the vine, both of which imply the necessity of cheap labour, have yet been prosecuted with any decided success. The culture of the tea plant has been tried in Brazil for the last twenty years, but apparently without any profitable result. It has been tried also on a larger scale in the island of Java within the last seven years; but there too, according to all accounts, without much success, although carried on with the advantage of Chinese from Fokien to superintend and conduct it. It is scarcely reasonable indeed to expect, that, a plant which thrives best between the 24th and 30th degree of latitude and in a country of primitive formation, should succeed in a country between the 6th and 7th degrees of latitude and of volcanic formation. It is true that the experiment is made in the mountainous part of the country, at an elevation of between two and three thousand feet above the level of the sea, and where the heat is consequently not very great. This, however, is not sufficient. In such a country, there is neither a summer nor a winter like those of China. There may be the same average heat throughout the year; but a delicate and capricious plant like tea, in so far at least as the quality of its produce is concerned, may require a very different distribution of it from what the climate of Java can by possibility supply.

The experiment is about to be tried under more favourable circumstances in Hindostan, a country which affords many situations in which the soils and climates approach nearly to those of the tea provinces in China, and where the price of labour is as low as in China itself. The inhabitants indeed want the skill and enterprize of the Chinese, but these may be furnished by European direction. The governor-general has in fact deputed a gentleman of great spirit and intelligence to China, in order to bring to India tea-plants and natives of the country accustomed to their culture, and considerable hopes may be entertained of the ultimate success of the project. There are countries nearer home, in which the culture of the tea plant might perhaps be carried on to advantage; such as some of the warmer parts of Spain, Portugal, and Greece. The habits of the tea-plant appear to bear some analogy to those of the

myrtle; and the experiment might be tried, in those situations which the myrtle in its natural state is found to affect.

With regard to the consumption of tea in different countries, a few observations will here be made. The whole of the nations of Asia east of Siam and Camboja, are what may be termed habitual and immemorial consumers of tea. It is to them what beer is, or more correctly was, to the northern, and what wine is to the southern nations of Europe. First then, with respect to the Chinese themselves, the tea-pot is in constant requisition, from morning till night, with persons of both sexes, of all ages, and of all conditions. The higher classes only, use the good teas; and it is perfectly well known that what is used by the lower is often of a very execrable quality, and sometimes is not tea at all, but some coarse and rude substitute. The Chinese use it always without milk, and frequently without sugar. The Chinese people, in round numbers, and by the most authentic and recent census, are 370 millions in number, and if they consume only in the same proportion as the inhabitants of the United Kingdom or at the rate of 40,000,000 lbs. per annum for a population of 25 millions, which under a system of free trade would probably be the lowest consumption, — their annual consumption will amount to more than 246,000 tons; but, if they consume, and this is more probable, twice as much as the average consumption of this country, then the whole will approach to near half a million of tons a-year. Let the value of the smallest of these amounts be taken as equal on an average only to the price of the lowest black tea in the Canton market, or 7½d. per lb., and it will be found to amount to the sum of eighteen millions and a half sterling. This is, no doubt, a great quantity, and a great value; but still, it will not appear extravagant, when it is considered that the same people consume a foreign drug and luxury, opium, to the annual value of 3,000,000*l.* sterling.

The next greatest consumers of tea are the Japanese; who use it nearly to the same extent as the Chinese, and whose number has been computed at 60 millions of people. The Coreans, the Tonquinese, and Cochin Chinese, are also considerable consumers of tea. The Japanese receive some of their finest teas from China; and the other two nations, all that is good of theirs. Throughout Mongolia, and Siberia, among all classes of the people, tea is nearly as much an article of necessity as in China itself. The tea made use of by these, commonly called brick tea, is extremely coarse, and made up into hard cakes in the form of a parallelopipedon, about eighteen inches long, ten broad, and near an inch thick. This is boiled

in milk, thickened with rye-meal, and seasoned with salt. In short the Tartars make a meal, of what the Chinese sip as a beverage. The whole of this tea is brought from China, and although coarse it consists of the genuine plant.

The Chinese colonists in the Eastern Archipelago, in Tonquin, Cochin China, Camboja, Siam, and the country of the Burmese, use tea as extensively as the inhabitants of the mother country, and from them its use has been borrowed by the native inhabitants of these countries respectively, among whom however it is confined to the wealthy. Tea is therefore a considerable article of export to all the countries in question, and it is conveyed to them all by the junks, except to the Burmese dominions. These receive the commodity over land from the province of Yunan, packed in parcels of a globular form, about the size of an eighteen-pound shot. This, as may be seen by the works of the Jesuits, is the shape in which the coarse tea of Yunan has always appeared. The natives of Hindostan, Persia, Arabia, and Turkey, are not unacquainted with the use of tea, but have recourse to it, for the most part, only for its supposed medicinal virtues. The Turks or Turcomans of Trans-Oxiana and the neighbouring countries, however, use it far more extensively, and indeed, with the exception of the Chinese and their immediate neighbours, seem to be among the greatest consumers of tea. It is remarkable, that the tea used by these people is all green, and a great deal of it of a very fine quality. As may be seen in the narrative of Lieutenant Burnes, the article is brought to Trans-Oxiana by the routes of Yukand and Badakhshan. To these places it is conveyed by Chinese caravans, and there purchased by the Moslem merchants, who convey it to Bokhara. It is made use of always without milk, and generally without sugar.

After the Chinese and Japanese, the greatest consumers of tea are the English, and these are followed by their descendants in America, by the Dutch, and the Russians. These are the only nations of the European stock that are considerable consumers, the use of coffee or chocolate predominating among the rest. The following is an approximation to the quantities of tea consumed by the respective countries of Europe and America, with the settlements and colonies of the former.

			lbs
Great Britain	...	...	40,000,000
Russia	...	...	6,500,000
Holland	...	...	3,000,000
Germany	...	...	2,000,000
France	...	...	250,000

United States	...	...	10,000,000
British America and West Indies	...	...	1,500,000
British settlements in India	...	...	1,000,000
British Australian Colonies	...	...	250,000

64,500,000

Besides the quantities here enumerated, there are exports to the Cape of Good Hope, to the Spanish and Portuguese settlements in India, and to South America, together with some to Denmark and Sweden; so that upon the whole the total consumption of the European and American nations will probably not be overrated at 65,000,000 lbs. The value of this, in China, will not be less than 4,000,000*l.* sterling.

Will China be able to supply any great quantity of tea, on the increased demand which the European and American nations are certain in no long period of time to make! There is no doubt but it will. The consumption of tea among the European nations commenced about 185 years ago, and in this time it has risen from a nameless fraction to near 30,000 tons a-year. Our descendants in America, who hardly existed when the tea plant became first known to Europe, now consume upwards of 5,000 tons of it. In the commencement of the eighteenth century, the consumption of tea in England did not exceed 100,000 lbs. weight. In the commencement of the nineteenth century, it was 20,000,000 lbs.; and these 20,000,000 lbs. will probably be doubled in the first year of the system of free trade. In all this time there appears to have been very little variation in the price of tea in China, beyond the effect of variety in the seasons. This assertion is of easy proof, and the proof as a matter of satisfaction and curiosity may be given. The following statement contains in two columns, the prices of tea in China in 1747 and in 1827. The first of these is taken from a work published in London in 1762, called 'A Voyage to the East Indies;' and the second from the printed Canton price current of the 14th December 1827.

Teas.	Tael ^s per Pecul.			
	1747.		1827.	
	From	To	From	To
Bohea	13	15	14	15
Congou	25	30	24	28
Souchong	35	70	26	27
Hyson	45	60	48	58

In 1747, the quantity of tea consumed in the United Kingdom was short of 2,400,000 lbs. weight, and in 1827 very nearly 30,000,000* ; yet this immense increase had in eighty years time produced no sensible effect on the prices in China. The only remarkable discrepancy regards the tea called Souchong ; and this is very easily accounted for. The finer description of this class of tea has in fact of late years, according to the official statements made by the East-India Company and their officers in China, disappeared altogether from the market. 'We are unable,' say the Supracargoes in a letter to the Directors, 'to account for the entire disappearance of Souchong†.'

Even the extraordinary demand which the opening of the trade in this country has given rise to, has enhanced the price of tea in the market of China by no more than 6 or 7 per cent ; and this amount has only been produced by the exclusion from England of the supply which the overstocked markets of Europe and America could easily have furnished. The capacity of China to furnish a great supply of tea, is very strikingly illustrated by the facility with which it has furnished that of green tea, an article not used by the Chinese themselves at all, except rarely for medicinal purposes,—which no foreign Asiatic nation but one consumes at all,—and which in fact may be said to be grown for the exclusive use of the nations of the European stock. Green tea did not come into use among European nations until many years after black had been in pretty general use, and yet, at present, the quantity of this commodity exported from China is not short of 15,000,000 lbs weight, and as its average value is greater than that of black tea, this cannot be estimated at less than a million and a quarter sterling. The enhanced price of teas in China, produced by the opening of the English trade, it may safely be predicted, will be of very short duration. Less tea will be sent to the continent of Europe and to America, until the stocks there are diminished, and in the mean time, the Chinese will be stimulated to plant more tea ; and the new plantations will yield their first crop, as already stated, in so short a period as from two to three years. The culture, it has been before stated, has already been extended from two to five provinces, and if requisite, it may be extended to many new ones. The land in which tea is cultivated, consists of hills or mountains of no remarkable fertility, and not suited for the production of corn. Of these,

* First Report of the Commissioners of Excise Inquiry, 1833, p. 70 and 73

† First Report of the Select Committee of the House of Commons, 1830. Appendix, p. 71.

notwithstanding the highly cultivated state of the plains and valleys of China, there is much unoccupied, and in fact in a state of nature. Indeed it should be remarked, that of the five provinces in which the culture of tea is at present carried on, four are the most populous of the whole empire, while that in which the greatest part of it is conducted, Fokien, receives much of its supply of food from abroad. The fear then of China's being unable to furnish an increased supply of tea, is only an idle chimæra, originating in the ignorance or fraudulent representations of monopolists. But for argument's sake, let it be supposed that there was some physical obstacle to the production of tea being at all increased, as there may possibly be to the production of Tokay, and at the worst, we should have the old quantity of tea, at a price lowered by the difference of all that is now got by the monopoly.

The effects of tea upon the human frame, are those of a very gentle stimulant producing an exhilaration of spirits. It is to this alone that it owes its general adoption. With the exception of coffee, and even this is not so generally congenial, it is the only stimulant which, taken in considerable quantity, is in no respect deleterious. The diversity in the flavour of the different varieties, is probably fully as great as in the different varieties of wine. The flavour, and the stimulant quality also, are most distinct in the green variety of the plant, and it is this consequently which is most apt to disagree with some constitutions. Even to the use of this however, custom soon reconciles the human frame. In the relative quantities of the two kinds consumed by different nations, accident, caprice, or fashion, appear to have a very large share. The Chinese themselves, and the oriental nations generally, hardly consume anything but black tea. The English consume in the proportion of but one part of green to four of black. The Americans on the contrary, consume two parts of green to one of black. The English in Bengal and in the Australian settlements, scarcely consume anything but green. The English at Bombay and Madras hardly use anything but black tea. The English merchants and other residents settled at Canton follow the example of the Chinese, using black tea alone. In Holland, the proportion of black tea used is much greater than of green, and in Russia, nearly the whole consumption consists of black. It should however be here observed, that the large proportion of black tea consumed in England, in comparison to settlements or colonies possessed by Englishmen or their descendants, has most probably arisen in a good measure from the poverty of the consumers, and the pressure of the monopoly and the duties. In

this country there are consumed about 7,000,000lbs. of Bohea, of which the cost is a good deal less than one-half of that of the lowest quality of green.

The most convenient mode of levying the duty upon tea in this country, is the next point for consideration. The convenience of the merchant, the advantage of the consumer, and the security of a large revenue to the state, are of course the points of practical importance in discussing this question. A duty began to be levied on tea in this country almost immediately upon its introduction, or in the year 1660*. It was at first taken in the clumsy and impracticable shape of an excise on every gallon of the infusion. After the experience of about twenty years, this was converted into a specific duty of 5s. per lb. on teas of all qualities. It afterwards paid mixed duties of customs and excise. These were complex, fluctuating, and often excessive, and generally consisted both of a specific duty and an *ad valorem* duty, the first varying from 1s. to 10s. per lb., and the last from about twelve per cent to twenty-seven per cent. In the years immediately previous to 1784, these jointly were estimated to amount to 120 per cent on the value. The celebrated Commutation Act reduced these exorbitant charges to an *ad valorem* duty of twelve and a-half per cent, at which they stood for eleven years, when they were raised to twenty per cent, and in the course of the war they were advanced on the bulk of the teas to thirty, to thirty-five, to forty, to fifty, to ninety-five, to ninety-six, and ultimately to 100 per cent, with a small exception in almost all these cases in favour of certain low-priced teas. This last duty of cent per cent continued until April 1834, when the trade was thrown open. The effect of the duties now named upon the consumption of tea was very remarkable. In some of the first years of the eighteenth century, the specific duty was no less than 10s. per lb., besides an *ad valorem* one of fourteen per cent. The average price of all teas then was 14s. 8d.; and the quantity sold did not exceed 140,000 lbs. weight. The specific duty was then reduced to 4s., the average price fell to less than 7s., and the consumption rose to half a million. The duty was afterwards raised and lowered with most extraordinary caprice, and the consumption fell or rose in the most striking manner. For example, in the four years which followed the year 1737, there was a legal consumption of about 1,000,000 lbs. in Great Britain. In the next five years it was under 800,000 lbs. For the twenty-two years which followed 1746, there was a consumption gradually rising from 2,000,000 to above 4,000,000 lbs.; and in the five years which followed these, the consumption suddenly drops down until it is under 200,000 lbs.

In 1773, it rises to the old amount; and for the ten years ending with 1783, it ranges from 4,000,000 to 5,000,000lbs*. In 1783, with the duty of 120 per cent, the legal consumption of Great Britain little exceeded 5,000,000 lbs.; and about 10,000,000lbs. were smuggled into the country. In ten years time, with a duty of 12½ per cent, the legal consumption rose to upwards of 16,000,000 lbs. In the next ten years, or in 1804, under the duty of ninety-five per cent, the consumption was about 18,500,000 lbs, or did not keep pace with the increase of population in the same time. In 1824, under a duty of 100 per cent, it was about 23,700,000lbs. Thus in a period of forty years, the total increase of consumption was short of fifty per cent, or barely kept pace with the increase of population. †

In Ireland the effect of high and low duties upon consumption was still more remarkable. Before 1800, and previous to the Union, the duties were about 4*d.* and 7*d.* per lb. on black and green tea respectively, and the consumption within a fraction of three millions of lbs. per annum. In 1801, they were raised upon the greater number of qualities of tea, to thirty-five per cent; then to thirty-eight per cent; then to eighty-four per cent; then to ninety-three per cent; then to ninety-six per cent; and finally to a hundred per cent as in Great Britain. In the first ten years experience of the higher duties, the consumption had diminished by a few thousand lbs.; and after ten years more experience, the increase upon the highest consumption amounted to less than eight per cent. The population of Ireland in the interim is supposed to have increased by about fifty per cent; so that in fact there was a great virtual decline in the consumption, with a very trifling increase in the actual amount.

The high duties paid to the State on tea, have undoubtedly been one great cause of retarding the consumption of this convenience of life; but the monopoly exercised in the article for above 180 years has had a still more pernicious influence in producing this evil. The quantity of tea offered for sale was always limited so as to keep up the article to a monopoly price, and this monopoly price was found by calculation to be equal throughout to double the natural price, or that at which a fair and active competition would have brought it to market. Thus the Congou and Hyson which at Hamburg or New York might respectively be had at 1*s.* and 2*s.* per lb., were charged † in England 2*s.* and 4*s.* The total amount of this monopoly tax did not fall short of 2,000,000*l.* per annum. It was of course

* First Report of Commission of Excise Inquiry, 1834. p. 70.

† Minutes of Evidence before the Committee of the Lords to the Affairs of the East-India Company in 1830; p. 340.

upon this monopoly price that the State charged its duty of 100 per cent: thus the pound of Hyson which might have been had honestly for 2s. was charged 4s. by the East India Company, and 4s. more by the State, making in all a charge of 8s.; so that the consumer who was nominally paying a tax of 100 per cent, was in reality paying one of 300.

There is another cause which has materially contributed, at times, to retard the consumption of tea; namely the comparatively lower duty which has occasionally been charged on coffee. In the ten years from 1809 to 1818, the duty on coffee which before had been 1s. 7d. was reduced to 7d., and the consumption rose from little more than 1,000,000 lbs. a-year to an average of 7,000,000. • If it had not been for the high war prices of the period, the consumption would probably have been greater. In the corresponding ten years the duty on tea was raised from sixty-five per cent to ninety-six per cent, and the consumption in consequence became nearly stationary. In 1825, the duty on coffee, which had for the six previous years been at a shilling per lb., was reduced to sixpence, and this, with a great fall in price, raised the consumption of coffee from about 8,000,000 lbs. in 1824, to 22,000,000 lbs. in 1832. In 1824, the consumption of tea for the United Kingdom was about 27,000,000 lbs., and in 1832 about 31,000,000. The consumption of coffee, therefore, had increased by 175 per cent, and that of tea by less than 15 per cent. But the tea all this while was virtually paying a tax of 300 per cent, while the *ad valorem* duty on the coffee, reckoned on the prices of the time, cannot be estimated higher than eighty per cent, or not a great deal more than one-fourth part of that levied on the corresponding article*.

This favour to the article of coffee has, however, by no means prevailed at all times in our fiscal system. On the contrary, the exorbitant duty which has sometimes been charged on that article, has contributed very materially to promote the consumption of tea. Previous to 1784, the duty on coffee was 1s. 6d. per lb; which, upon 80s. per cwt. the price of the time, was above 200 per cent; the nominal duty upon tea, was only 120 per cent. In 1784, the duty on coffee was reduced to 6d. per lb., which upon the same cost was 70 per cent; the nominal duty upon tea was at the same time only 12½ per cent, and there are no means of ascertaining to what extent it was enhanced by the East India Company's monopoly at the time. While the duty however upon tea remained stationary at 12½ per cent, that on coffee was soon increased to 10½d. per lb., equal to an *ad valorem* duty of 125 per cent.

* Macculloch's Commercial Dictionary, article Coffee, page 311—First Report of Commissioners of Excise Inquiry, 1834, p. 74

For the most part, the fiscal policy pursued has been to favour one or another interest, as happened to be most convenient to the minister of the day, at the expense of the public. It was this, as much as the necessity of suppressing smuggling, which gave rise to the Commutation Act of 1784, in so far as the provisions respecting tea were concerned. The minister wanted the support of the East-India Company in order to defeat his opponents, and instead of throwing open the China trade, he struck off $107\frac{1}{2}$ per cent of the tea duties in order that the Company might enjoy its monopoly, and then coolly turned round upon the nation, and imposed an additional House and Window-tax to cover the loss sustained by the revenue, estimated at 630,000*l.* per annum.

Ours is not the only nation, however, of which the policy has been occasionally to favour one of these two articles at the expense of the other; and the result has invariably been to retard the consumption of the one and increase that of the other. In 1833, the average of the tea duties in the United States of America, reckoned on the price, was equal to 55 per cent; while that on coffee, two cents or *1d.* a lb., amounted to an *ad valorem* duty of no more than 20 per cent. This however, was not all. The previous duty on coffee, when the tea duties were the same as in 1833, had been no less than five cents or $2\frac{1}{2}d.$ per lb.; which would have been equal to fifty per cent *ad valorem*, or something like an equitable approach to the tea duties. The results of this policy are remarkable. In 1827, the consumption of coffee in the United States was 31,895,217 lbs., and that of tea 5,372,956 lbs. In 1833, the consumption of coffee,—that is, the quantity of coffee paying duties,—had risen to 79,010,212 lbs. or was increased by 148 per cent; whereas the consumption of tea amounted to no more than 5,459,233 lbs., or had increased by the trifling amount of $1\frac{1}{2}$ per cent.

For forty years, and until the abolition of the East-India Company's monopoly last year, the duty levied on tea in Great Britain was invariably an *ad valorem* one, estimated upon the prices which the tea fetched at the East-India Company's quarterly sales. The inconvenience of this mode of levying the duty, seems to be acknowledged by all parties. For the security of so great a branch of revenue, fixed periodical sales must have been adopted, and those sales must have been confined to a very few places in the United Kingdom. Such a plan would have proved inconvenient to the mercantile interest at large, and consequently detrimental both to the consumer and to the revenue. It would in fact have thrown the trade into the hands of a few great capitalists, and consequently have amounted to the creation of a new species of

monopoly. It is unnecessary, therefore, to say anything more respecting it. The plan now produced by the government, is similar to that which has been followed in the United States ever since the year 1789, that is, from the time that the general government was invested with the power of levying duties, or by the first Congress in its second session*. This consists in classing the teas according to their value, and affixing a specific duty to each class. The American scale embraced five of these classes, ranging from twelve cents or 6*d.* a lb., up to fifty cents or more than 2*s.* a lb. The English government's plan contains only three classes, viz. one at 1*s.* 6*d.* per lb., a second at 2*s.* 2*d.* per lb., and a third at 3*s.* In short, while the finest teas are charged in America more than four times the duties per lb. that are charged upon the coarsest, the English are only charged twice the duty. In the first class of our teas, as well as in the American scheme, Bohea stands alone, charged with a duty of 1*s.* 6*d.* In the second class are Congou, Orange Peko, Campoi, Twankay, and Hyson Skin, charged with 2*s.* 2*d.* per lb.; and in the third, Souchong, Flowery Peko, Hyson, Young Hyson, Gunpowder, and all non-enumerated teas. The objections to this scale of duties are very obvious. They are too high, even for the purpose of realizing the highest revenue. They are disproportionate, being highest on the value of the lower descriptions of tea, and lowest on the higher. The classification is not carried sufficiently far, and consequently the attempt at simplification is productive of complexity and confusion. And finally some descriptions of tea are palpably misplaced. Some of these objections will appear sufficiently obvious, by an inspection of the following table, which shows the operation of the English and American rated duties, respectively calculated upon the American prices.

Tea.	Cost per lb.		Duty.									
			Per lb.				Per cent.					
							English.		American		English.		American
	From	To	s.	d.	s.	d.	s.	d.	From	To	From	To
Bohea	0. 6½	0. 8	1. 6	0. 6	277	225	92	75				
Souchong (or Congou) ..	1. 0½	1. 8	2. 2	1. 0½	208	130	100	62½				
Hyson Skin	1. 0½	2. 1	2. 2	1. 2	208	104	112	56				
Young Hyson	2. 2½	3. 4	3. 0	1. 8	135	90	71	50				
Hyson	2. 4	3. 8	3. 0	1. 8	128	82	75	45				
Gunpowder	2. 8½	4. 2	3. 0	2. 1	111	72	77	50				

* Seybert's Commerce of the United States of America.

The inequalities of the English duty, as exhibited in this statement, are palpable. The average duty paid by the lowest class of consumers, is half as much more as that paid by the middle classes; the middle classes pay more than twice as much as the higher classes; and the lower classes pay two times and a-half more than the higher classes. In a word, each class is taxed in the inverse proportion of its power to pay. If Boheas, worth on an average about $7\frac{1}{2}d.$, paid a duty of $1s. 6d.$, it is clear that Congous and low Greens, worth about $1s. 5\frac{1}{2}d.$, instead of $2s. 2d.$ ought to have paid $3s. 6d.$; and that the higher classes of teas, worth on an average $2s. 11d.$, instead of $3s.$ ought to have been charged with a duty of $7s.$ One of the principles kept in view in fixing the existing duties, was, the realization of the previous amount of duties under the monopoly. This has been done, but it is by throwing the burthen on the shoulders of the lower and middle classes, and removing it from those of the higher; a fact which will be quite obvious by showing the duties actually paid by teas of different classes, in the last years of the monopoly. In 1831-32, the average duty paid by Bohea little exceeded $1s. 10d.$ per lb; that on teas included in the second class was $2s. 6d.$; while that on teas of the highest class, exclusive of Peko and Gunpowder, was $3s. 10d.$ According to this statement, the reduction of duty on the teas consumed by the lower classes was $4d.$ per lb; on that of the middle classes $3d.$; and on that of the higher classes $10d.$ But this by no means shows what the proportional duties ought to have been. By comparing the Canton and American prices with the English, it will be plain that the market for the inferior and middling classes of teas was kept at a much higher monopoly price than that for the better classes. Bohea teas which cost the Company $8d.$ per lb. in Canton, are sold by them in London at $1s. 10d.$; while Congous which cost them $1s. 3d.$ are sold only at $2s. 2\frac{3}{4}d.$, and Hyson which cost in Canton $2s. 1d.$ is sold at $3s. 10\frac{1}{4}d.$

Another error of this scheme of duties is that some of the teas are misplaced, Souchong, for example, is made to pay the highest rate of duty, while in fact, with the exception of a very trifling quantity, it is the same kind of tea as Congou, Campoi, &c., and bears the same price in the market; and indeed in this last respect is also on an equality with the green tea called Twankay, which stands in the second grade. Some teas also which ought to have been enumerated are excluded altogether; such as Capar, Padre, Tetsong, Ankoi, Singlo, Pouchong, Sonchi, Hong-muey, and Black-leafed Peko; and they are consequently subjected to the highest

class of duty, while in fact they ought to have been subjected to the second class.

Such however, are not the objections which have been urged against the new scheme of tea duties by the tea-dealers and tea-brokers of London. These gentlemen and their predecessors have for near two centuries been in exclusive possession of this branch of the tea trade, and latterly, for many years, a sum not falling short of 7,000,000*l.* sterling in the shape of price and duties has passed through their hands, affording them vast profits and commissions. It is no wonder that they should be unwilling to share the advantages with other parts of the Empire, or, due allowance being made for poor human nature, should clamour loudly to maintain their privileges. During the discussion of the East-India Company's monopoly, from 1829 to 1832, while the merchants of all the outports and manufacturing towns gave their time, money, and intelligence towards breaking down the monopoly, not a man among the tea-dealers or tea-brokers of London moved a foot, hand, or tongue to assist them. No sooner, however, was a new scheme of duties promulgated which had for its object the convenience and advantage of the public, than these persons formed themselves into a committee for the ostensible purpose of watching all proceedings in Parliament relative to the expiration or renewal of the Company's Charter. This was in the end of December 1832, after the whole evidence had been gone through and nearly the whole matter determined upon. During the last Session of Parliament the tea dealers and brokers by dint of importunity procured a Select Committee of the House of Commons, to inquire into the expediency of overthrowing the rated duties of the Act of the previous Session of Parliament, and of establishing one fixed rate of duty on all descriptions of tea. This Committee, after examining two-and-twenty witnesses, sitting near five months, and printing 136 folio pages of evidence, made a vague and evasive Report of eight lines, and the tea-dealers and tea-brokers now threaten again to renew the subject in the present Session, and have already waited upon Sir Robert Peel with this avowed purpose.

Tea, as every body knows, is an article of the first demand in this country; and as the duties upon it will, in no long time, become one of the greatest branches of the public revenue, it will be worth while to give a careful examination to the arguments which the London tea-dealers and tea-brokers have urged against a graduated scale of duties, and in favour of the substitution of one fixed duty upon all descriptions of tea. The first argument employed against the fixed duties, is, that the higher

and lower qualities of teas of different names run into each other by such nice gradations, that it is impossible to discriminate them with a view to fiscal classification. The assertion is for the most part confined to the difficulty of distinguishing between Bohea and Congou. The most material witnesses in this case, against the assertion of the tea-dealers and tea-brokers, are the tea-dealers and tea-brokers themselves. In 1830, the Board of Control caused to be imported certain samples of tea from the principal tea emporia of Europe and America. These samples consisted of 103 in number, and were submitted to twelve of the most skilful and respectable London brokers, who singly first, and then collectively, examined them, and affixed a price to the whole of them. Two of the brokers who had examined the teas, gave evidence on the subject before the Select Committee on the affairs of the East-India Company, and to one of them the following questions were put, and he gave the following answers:—

‘Was there much difference of opinion between them?’

‘There was; in the finer sorts of tea especially.’

‘Was there in the Congous and Boheas?’

‘No, very little; hardly any at all; merely fractional parts.’

‘Were the samples of sufficient size to enable you to judge fairly of them?’—

‘Certainly.’

In the spring of 1833, the India Board, preparatory to establishing a new scale of duties, and introducing a bill into Parliament for that purpose, directed samples of all the different teas to be sent to the India Board, and requested the attendance of a number of the London tea-dealers and tea-brokers for the purpose of examining and classifying them. Forty samples of twelve different teas were accordingly sent from the India-*House*, and seven tea-dealers and tea-brokers, with two of the officers of the East-India Company, attended.

No difficulty was made upon this occasion, in discriminating the forty different varieties of tea. Mr. Ellis, one of the members of the India Board, who was present at the examination, in the evidence which he gave before the Select Committee of 1834 was asked, if those who tested the tea agreed respecting the qualities, and answered, ‘They did, except in one instance, that of Mr. Layton, who said, that though he erred in the dry tasting, he had been able to correct the error he had fallen into when he had the infusion. Mr. Layton in his second examination differed from the statement made in the first. He had communicated with the trade, and he had found the opinion of the

trade to be, that the duty should be a uniform one*.' This, by the way, was the same Mr. Layton, who two years before, in reference to the only point in dispute, the discrimination of Congous and Boheas, declared that among the brokers, there was little difference, 'very little; hardly any at all; merely fractional parts.'

No sooner did the examinations before the Committee of 1834 commence, than the tea dealers and brokers became full of difficulties, doubts, and perplexities, and not a man of them would pretend to discriminate between low Congous and high Boheas. In 1831 and 1833, the same individuals had examined no less than twenty samples of the two kinds of tea, and never made a difficulty in fixing their names, qualities, and prices. It appears that the East-India Company's officers in China had been in the habit, for many years, of invoicing certain teas, which were really Congou, under the name of Bohea, and upon this blunder, which could only have been persevered in by a company of monopolists, they founded their chief argument. In Canton, and in all the markets of Europe and America, the distinction between the two different teas is, in price and quality, more complete than between any two teas of the same colour, and standing next to each other in the price currents. In fact the Bohea, and it is the only black tea which does so, consists of the old, half-withered, and fallen leaves of the plant at the end of the season, readily discriminated by colour, shape, size, and odour, from the younger and fresher teas of the earlier crops; and the founding an argument upon the misnomer of the East-India Company, was, to say the least, but a clumsy and intolerable assumption. Among the samples of tea imported in 1830 by the India Board, there were four samples of Bohea from Rotterdam and Hamburgh; these, of course, were submitted for examination to the brokers along with the rest, and the average price affixed to them was 1s. 4 $\frac{3}{4}$ d., being more than 100 per cent above the price at which they were purchased on the continent by the consular officers†. Now the price thus affixed by the brokers, was, within a fraction, only three-halfpence less than the average of the whole of the Company's Bohea tea sold within the same year; although among these Boheas it is alleged that a large proportion actually consisted of Congous.

The pretext of not being able to discriminate between the

* Report on Tea Duties, 1834, p. 68, question 1014.

† Note. Lords Report on the Affairs of the East-India Company, 1803, pages 340 and 696.

different teas, made by the dealers, brokers, and officers of the East-India Company, was sadly put out of countenance by the evidence of Mr. Wybrow. This gentleman had been Excise Registrar of tea sales for eight years, and for the fifteen months previous to his examination had given his attention to the tasting of teas with the laudable object of being appointed a tea-inspector under the new system. Unhappily for them, no less than twelve of the tea-brokers had furnished him with a certificate, stating that he was 'well qualified, by his application to the sampling and tasting of tea, to judge of the same.' This gentleman declared in evidence, that until within the last twelve months, he had never heard any doubts entertained by persons connected with the tea trade respecting the power to discriminate between Bohea and Congou teas. Notwithstanding his short experience, he had no difficulty in naming every quality of tea, of which samples were presented to him at the India Board. Not satisfied with this evidence of his competency, the friends of the tea dealers and brokers in the Select Committee insisted that the committee should adjourn to the East-India House, and there put the skill of Mr. Wybrow to the severest test. Eight samples of Congous and Boheas were presented to him, and he named them all without a mistake. The persevering advocates of the tea dealers and brokers, not satisfied with this second experiment, insisted that the Committee should repair once more to the India-House, and the Committee did so, and Mr. Wybrow was tested on his skill on fourteen samples of different descriptions of tea. The result of the experiment is given by the Chairman of the Committee in the following words.—

'We went through the whole number of fourteen samples in the same way, and as we came to each sample, Mr. Wybrow declared, this is Bohea, this is Congou, this is Congou, and this is Bohea, according to his opinion, during the whole of the fourteen samples. He perfectly agreed with the description of the teas we took them from, and in the fourteen he made no difficulty, nor the slightest mistake whatever, ascertaining the distinction solely by the smell, without infusion.'

The fact is, that up to the time of writing this article, the tea duties on the new principle have actually been collected upon four million pounds of tea imported by the free trade, and upon thirty-two millions of pounds of the Company's tea, with surprising success. Among the free trade tea, there was tea

imported from Canton, from Bombay, from Singapore, from the Cape of Good Hope (being tea intermediately brought from America), from Hamburgh, Dantzic, and Rotterdam. In short, the skill of the new inspectors, at setting out, was put to the severest trial. The only alleged mistakes are two in number. The first of these relates to fifty-nine chests of tea, of which about an equal portion was imported into London, Liverpool, and Glasgow, and which in the two first was charged with the highest duty of three shillings, and in the last with the minor one of 2s 2d. This important affair is published all over the kingdom in a lithographed letter of one of the brokers, as 'a most conclusive proof of the unfitness and uncertainty of the present method of levying the duties.' The delicate taste of these gentlemen in matters of evidence seems to be easily satisfied. The second case refers to some spurious teas imported from Singapore, and which, on their being found to be so, were re-exported to the place from whence they came. The whole quantity amounted to about eighty packages of about thirty pounds weight each, and the whole value might be about 50*l.* or 60*l.* sterling, supposing it to have been genuine tea. The public press rang for a whole month together with the clamours of the London tea trade on the subject of these eighty packages. The tea trade, according to their statement, was about to be disgraced, and twenty-five millions of people were upon the very point of being poisoned. The whole quantity of tea imported from Singapore has amounted to about 90,000 lbs weight, of which the spurious article amounted to something like one-fortieth part. The tea imported from Singapore had all been brought to that place by Chinese junks, and was of a description wholly new to the English market. Part of it, including the spurious tea, and which consisted of other leaves than tea intermixed with real tea, had been carelessly purchased by the exporters, inexperienced, as might be expected, in this new branch of trade.

But was no spurious tea imported under the monopoly system? It appears from the evidence of the Company's tea warehouse-keeper, that previous to the appointment of inspectors in China, that is of London tea-brokers being sent to Canton, in 1790, immense quantities of tea, so bad that it had either to be sent back to China or destroyed, had been imported into this country. As late as the four years ending with 1827, no less than 280,000 lbs. of spurious tea were imported, that is, 120 times the quantity from Singapore respecting which so prodigious a rout was lately made; yet not a syllable about it was known

to the public at the time. 'Part of it,' said the warehouse-keeper of the Company in his evidence, 'was mixed with leaves which were not the leaves of the tea plant, and some of it had a mixture of iron dust, which rendered it dangerous for the Company to sell it, on account of the Excise having seized some tea which contained that dust.' Some of this was sent back to China, and there thrown into the river, but some of it also was sold at the Commercial Rooms, and at Garraway's, for exportation. It is urged by the advocates of the Company, that this tea was not imported by the Company, but only by the Company's officers. This is sheer evasion. The teas imported by the officers had formed part and parcel of the Company's system immemorially, —part and parcel of that system by which the British public was supplied with tea;—and the whole of it was as much in the hands of the brokers and dealers as the Company's own investment.

The second objection urged against a graduated scale of duties, and in favour of one specific duty on all teas, is, that the first will encourage the consumption of an inferior article, and the second discourage it, and force the consumer to use a better and higher-priced commodity. The first step to answering this, is conveyed in the following table, which shows what would be the operation of a uniform duty of 2s. per pound as proposed by the tea dealers and brokers, reckoned as an *ad valorem* duty on the free trade price.

Tea.	Cost per lb.		Duty per cent.	
	From	To	From	To
	<i>s.</i> <i>d.</i>	<i>s.</i> <i>d.</i>		
Bohea	0 . 6½	0 . 8	369	300
Souchong or Congou...	1 . 0½	1 . 8	192	120
Hyson Skin	1 . 0½	2 . 1	192	96
Young Hyson	2 . 2½	3 . 4	90	60
Hyson	2 . 4	3 . 8	85	54
Gunpowder	2 . 8½	4 . 2	73	48

By the existing scale of duties, as will be seen by the table formerly given, the duties on the lowest class of teas amount to a tax of from 277 to 225 per cent; on the second class, to one of from 208 to 104; and on the third class, to one of from 135 to 72. This is surely a sufficient discrepancy to satisfy

the rich, being a charge of nearly four times as much per cent on the poorest man's tea as on the richest,—*a most satisfactory item when the time for a property-tax shall come*,—and a more than sufficient encouragement to the consumption of high-priced teas by the poor. But, by the one rate of duty upon all teas, there is an intolerable aggravation of the injustice. In this case the lowest-priced tea is charged with a duty on the value, a great deal more than double the duty on teas consumed by the middle classes; the middle classes are charged with a duty about two and a-half times more than the richer classes; and the duty charged to the richest classes is very little more than one-fifth part of what is charged to the poorest. If parliament were to enact a law which should say the lower classes of society shall pay on their consumption of tea a duty of 369 per cent, the middling classes a duty of 120 per cent, and the highest classes one of 48 per cent, it would raise a mob; but it would be doing no more than is virtually done by this proposed specific duty of 2s. on all descriptions of tea.

In defence of this scheme, one of the paradoxes advanced by the tea dealers and brokers in their evidence is, that the poorest classes of society are not consumers of the lowest class of teas, that is, of Bohea. Under the monopoly, upwards of 6,000,000 lbs. of Bohea, or about one-fifth part of the entire consumption of the kingdom, were imported. The consumers of the cheapest article may fairly be presumed to be those, and those only, who could not consume the better and higher-priced article. These gentlemen might as well inform us, that the peasantry of the wine countries were the consumers of wine of the 'first growth,' and the gentry and nobility consumers of the ordinary country wines. They might as well aver that beer and gin were not the beverages of the working classes in this country, but brandy and wine, and that the gentry and nobility of England were addicted to the former and rejected the latter. In the markets of this country, there are at least a dozen varieties of coffee, differing in price from the finest Mocha and first quality of Jamaica, down to *triage* or refuse coffee; and all pay one uniform duty of 6d. per lb. The tax on the value in this case is twice and even three times as high upon the lowest quality of coffee, as upon ordinary and fine coffees; yet the poorer classes are not the consumers of the middling and finer kinds, but of the very worst kinds, and simply for this reason, that even after the payment of the duty, the lowest quality is still the cheapest to the buyer.

But what became of the 6,000,000 lbs. of Bohea imported

under the monopoly system? It was for the most part mixed up with Congou, and sold under the latter name to the poorer classes of consumers; so that it might just as well be said that a man drank no brandy or wine because it was his habit to mix them with water, as that the poor consumed no Bohea because the Bohea had some leaves of Congou in it. Such is the stuff of which the facts and arguments of the tea dealers and brokers is made up.

The tea trade dwells particularly upon the impolicy of making a discriminating duty, amounting to 8*d.* per lb., between Bohea and Congou. They never advert to the operation of this duty as an *ad valorem* duty, nor consider that a duty of 1*s.* 6*d.* upon a commodity which, when the very finest, is not worth more than a shilling, is much higher than a duty of 2*s.* 2*d.* upon a commodity which may be worth from 1*s.* 6*d.* up to 2*s.* But, admitting that the *ad valorem* duty was exactly the same, or even lower, do they not consider that the policy heretofore pursued in this country affords ample precedents for such a proceeding? Under the Commutation Act of 1784, the same *ad valorem* duty was levied upon all teas, including Boheas. This continued to be the case down to the year 1797, and then commenced the system of favouring the consumption of the lower classes, which continued, with one interruption, down to the termination of the monopoly. In that year the duty on all teas sold at or above 2*s.* 6*d.* per lb., was raised to 30 per cent, while the duty on teas sold under 2*s.* 6*d.*, that is on Bohea, was continued at the rate of the two preceding years, namely 20 per cent. In 1798, the duty on the higher class of teas was raised to 35 per cent. In 1800, it was raised to 40 per cent; and in 1801, to 50 per cent; yet in all this time the duty on the lower quality was continued still at 20. In 1803, the duty on the higher class of teas was raised to 95 per cent, while on the lower it was raised only to 65. In 1805, an addition of 2*s.* 6*d.* on every 100*l.* of the value, was made to each of these duties; and it was not until the following year, that the duties on the two classes were assimilated and made 96 per cent. In 1819, when the duty upon the higher class of teas was raised to 100 per cent, Bohea or at least such of it as sold under 2*s.* was continued at the old duty, or favoured by 4 per cent. And this was expressly declared in the debates in Parliament to be a favour granted to the poor. The reader may see from the following table, supposing Congou to sell at 2*s.* 6*d.* and Bohea at 2*s.*, the operation of these different duties as a specific duty.

A. D.	Bohea at 2s. per lb.		Congou at 2s. 6d. per lb.	
	Per cent.	Per lb. s. d.	Per cent.	Per lb. s. d.
1784...	12 $\frac{1}{2}$.	0 : 3	12 $\frac{1}{2}$	0 : 3 $\frac{3}{4}$
1795...	20	0 : 4 $\frac{1}{2}$	20	0 : 6
1797...	20	0 : 4 $\frac{1}{2}$	30	0 : 9
1798...	20	0 : 4 $\frac{1}{2}$	35	0 : 10 $\frac{1}{2}$
1800...	20	0 : 4 $\frac{1}{2}$	40	1 : 0
1801...	20	0 : 4 $\frac{1}{2}$	50	1 : 3
1803...	65	0 : 3 $\frac{3}{4}$	95	2 : 4 $\frac{1}{2}$
1806...	96	1 : 11 $\frac{1}{2}$	96	2 : 4 $\frac{1}{2}$
1819...	96	1 : 11 $\frac{1}{2}$	100	2 : 6

The tea trade at present complains of a discriminating duty between Bohea and Congou which is equal to a difference of 44 per cent; yet in 1797 the difference was near 100 per cent; in 1798 near 120 per cent; in 1800 it was 150; in 1801 it was 212, or the duty on a pound of Congou was more than three times as great as the duty on a pound of Bohea.

There are not data at hand which will prove what operation the different rates of duty imposed since 1784, had in increasing or diminishing the importation of Boheas or low-priced teas. Indeed under the capricious workings of a monopoly, such data would be of little value. The East-India Company, at one time, imported very little Bohea, and latterly their importations have been very large. At one time they encouraged the consumption, and at another they see no great harm if Bohea should be altogether omitted in the investment. In 1814, the total quantity imported was short of 400,000 lbs.; it shortly afterwards rose to 1,000,000; then to two, three, four, five, and six millions; and in 1832, the quantity actually offered for sale rose to 7,400,000 lbs. Upon the whole it does not appear that the encouragement held out to the importation of Boheas from 1797 to 1806 had any effect in increasing the importation, or at all events the equalization of the duty on all classes of tea in 1796 appears to have counteracted it. For before the commencement of the last charter of the Company, the importation of it seems to have ceased almost altogether. The increase in the importation began again before the small discriminating duty of 4 per cent was imposed, and although the increase has been most remarkable since that time, it can hardly be attributed to a favour so trifling in the duty. In fact, as already hinted, the affair seems to be a matter of sheer caprice; and it is to be observed that the consumption

of Congou, Campoi, and Souchong, had declined in proportion as that of Bohea increased. In other words, the average quality of the great bulk of the teas consumed by the nation had materially deteriorated.

In the American scale of rated duties a broad distinction has always been established between Boheas and other black teas. In 1789 when the scale was first adopted, the duty on Bohea was six cents or 3*d.* per lb., and that on other black teas ten-cents or 5*d.* per lb. Since the conclusion of the war with England in 1816, down to the period when the duties ceased altogether, or in March 1833, the rates were throughout twelve cents or 6*d.* per lb. on Bohea, and twenty-five, or something more than 1*s.*, on Congou and other Blacks. Thus the difference made between the two descriptions of tea by the original tariff, instead of being diminished, was increased from 66 per cent to above 108 per cent. Even this does not appear for a long while to have produced any effect either upon the importation or consumption of tea; for during the ten years from 1821 to 1829 inclusive, the importation of Bohea declined, while that of Souchong, Congou, and other Blacks bearing double the tax had increased, as may be seen from the following extract from the American Treasury Statements of 1829.

A. D.	Bohea.	Souchong, Congou, and other Blacks.
	lbs.	lbs.
1821.	191,953	1,185,342
1822	498,570	1,170,453
1823	668,384	2,134,137
1824	499,834	2,259,413
1825	338,610	1,762,250
1826	236,682	1,965,719
1827	61,345	1,357,295
1828	90,065	1,657,413
1829	54,868	1,325,714

In the year 1830 however, the quantity of Bohea imported had increased, and in 1831 and 1832 become considerable, as may be seen by the following statement*.

* Finance, Commerce, and Navigation of the United States for 1831-2 and 1832-3.

	Bohea. lbs.	Souchong and other Blacks. lbs.
1831	415,058	1,415,445
1832	637,341	2,960,764

Even in this case, however, it would appear that there was a great augmentation also in the better descriptions of black tea. In 1827, the total quantity of Bohea tea entered for home consumption, was only 18,682 lbs., while that of Congou and other Blacks was 1,562,349. In 1831 and 1832 the quantities of the two classes entered for home consumption were as follows.

	Bohea. lbs.	Souchong and other Blacks. lbs.
1831	148,925	1,607,222
1832	486,480	1,425,421

It may here be observed, that it is well understood that the increased consumption and import of Bohea is owing to the large immigration of the poorer classes of Irish of late years into America and the Canadas; for into the last named country the American tea has been smuggled to a great extent.

After these statements, the reader need hardly be told that it is not within the province of any government to regulate or direct the consumption of a people, and that no government has ever attempted to do so without doing injury to the merchant, the consumer, and the revenue. The London tea-dealers and tea-brokers are not, however, satisfied with the protection of their own interests. This indeed, according to their disinterested assertions is but a secondary consideration with them. The interest of the consumers is dearer to them than their own, and they are, if possible, still more solicitous touching the security of the public revenue. The interests of the revenue which are now to be considered, have in fact been most seriously injured by the system of monopoly, and if the proposed specific duty on all descriptions of tea were adopted, the injury would be continued. The heavy weight of the duty upon the lower classes of tea would tend to drive these out of the market altogether, or at least seriously discourage their consumption, and, by limiting the consumption of tea, would reduce it from an article of necessity to an article of luxury. The great consumers of tea, as of every other article of necessity, are the lower and middle classes of society and not the upper, and they too are the great contributors to the public revenue on this article, as they are to that derived from every

taxable article of the same nature. This will be seen by the perusal of the following table.

Statement of the whole quantity of tea sold by the East-India Company in 1833-4, with the amount of duty collected on each quality*.

	Sold.	Duty.	Consumed by
	lbs.	£.	
Bohea - - -	6,400,000	585,000	
Congou - - -	19,447,000	2,069,000	
Twankay - - -	4,882,000	3,171,800	
Total - - -	30,729,000	517,800	Lower and middle classes.
Souchong, Hyson, &c	1,994,000	314,000	Upper classes.
Grand Total -	32,723,000	3,485,800	

It appears from this statement that the quantity of tea consumed by the upper classes does not amount to a sixteenth part of the whole; while the duties derived from their consumption are short of one eleventh part of the whole revenue derived from tea. Indeed, the revenue derived from Bohea alone, the consumption of washerwomen and 'unwashed artificers,' exceeds that yielded by the consumption of the gentry and nobility by between 80 and 90 per cent.

But it has been argued by the advocates of a fixed rate of duty of 2s. per lb. on all teas, that such a duty would have the effect of raising the revenue upon Bohea, and they exhibited statements before the Committee of 1834, showing that the quantity of Bohea in the table, would, instead of a revenue of 585,000*l.* at the *ad valorem* duty, or 480,000*l.* at the rated duty of 1s. 6*d.*, have afforded 640,000*l.* So it would, if the people were to continue to consume the Bohea at the advanced duty. But that this would not be the case, is most obvious. Say that the first cost of a pound of Bohea is 8*d.* and of a pound of Congou 1*s.*, the price including duty of the first would be 2*s.* 8*d.*, and of the second 3*s.*; a difference only of 4*d.*, which it is quite clear would be more than compensated by the superior quality of the Congou. It would be more agreeable to the palate, and more economical in use, because it would go farther. By the factitious operation of the duty, it would in fact be to the consumer the more valuable article of the two; he would receive more intrinsic value from laying out 2*s.* 8*d.* in the one article, than he would do in laying it out in the other. The natural difference in the value of the

two commodities is 50 per cent; while the factitious difference is only $12\frac{1}{2}$ per cent. The same reasoning which applies to these two descriptions of teas, evidently applies, more or less, although not in so high a degree, to all the rest of the lower classes of tea. The high probability, and indeed certainty, is, that Bohea would be driven out of the market altogether, and that in a few years no such commodity would exist. This has in reality taken place, both in Holland and France. In the first of these countries the same duty is levied upon Boheas and low Congous, and although it amounts to no more than $2\frac{1}{4}d.$ per lb., its operation is such, that, on the value of the first, it amounts to between 30 and 40 per cent, while on that of the second it amounts only to 20. The distinction has been sufficient very nearly to exclude Bohea from the market altogether. In France, the duty on Bohea averages 460 per cent, while that on Congou does not exceed 215. The consequence is, that in the French market there is no Bohea. No government in its senses then, it may safely be predicted, will act upon the advice of the London tea trade, and place the same rate of duty, and this an exorbitant one, upon commodities the intrinsic value of which varies from $6d.$ up to $4s.$ The only government that actually follows this course is that of France, and the results there are certainly not an example for imitation. If the tea is imported from the East Indies, in French vessels, the duty is eighty-two and a-half centimes per half-kilogramme; if imported from elsewhere, under the national flag, two francs and seventy-five centimes; and if imported in foreign vessels, from any part of the world, three francs and thirty centimes. The French tea is frequently imported under the American flag, for when imported in French vessels this is effected at so much higher cost as to balance the difference of duties. The duty paid therefore, is virtually the highest duty, and in sterling money this is $2s. 9d.$ per lb. on all teas. Reckoned as an *ad valorem* duty on the American prices already quoted, such a tax will amount on Bohea to an average charge of 460 per cent; on Congou and Souchong, to 215 per cent; and on Hyson, Gunpowder, and Flowery Peko, to less than 100 per cent. In France it follows that a pound of the finest Gunpowder may be had for $6s. 6d.$, and a pound of the best Souchong for $4s. 6d.$, while ordinary Bohea which ought not to cost above one-sixth part as much as the first, nor above one-third part as much as the second, could not be sold under $3s. 6d.$ The other results are that Bohea is expelled from the market, and that the whole consumption of tea among thirty-two millions* of people does not

exceed a quarter of a million of lbs. To this last effect however, the low duty on coffee, not exceeding on an average 80 per cent, materially contributes, as it does in England and America.

But it may be urged that one uniform rate of duty is levied upon many articles of general consumption in this country, such as coffee, sugar, wines, foreign spirits, and tobacco; and therefore that one uniform duty, and that a heavy one, may also be levied on tea. It is true enough that such duties are levied on the articles in question; but it is also true that their weight, and the virtual inequality of their operation, diminish consumption and injure the public revenue; to say nothing of the manifest fraud and robbery on the middle and working classes, which they will set to rights, as before intimated, when they are strong enough to be the arrangers of a Property Tax. Of the articles stated there are two, sugar and coffee, which, like tea, may be called necessities of life; and on these, the duties, although enormously high, are comparatively moderate in proportion to those proposed to be imposed on tea. For there does not exist in these two commodities the same range of qualities as in tea, nor the same palpable means of discriminating the different qualities. The price of the different descriptions of tea will vary from 6*d.* up to 4*s.*; but the difference in price between the lowest and the highest muscovado sugar does not exceed 50 per cent; while the highest quality of colonial coffee will scarcely exceed the lowest by more than 100 per cent. The highest duty on colonial sugars paid in this country will not exceed 100 per cent, while the lowest will be from 60 to 70. The lowest duty to which coffee can be subjected in this country will not exceed 50 per cent, while the highest will not exceed double that amount, and even this is an extreme case. In the article of tobacco, to be sure, there is a monstrous inequality in the operation of a single rate of duty, since, in some cases, it falls below 300 per cent, and in others runs up to 1200; which is merely done to assist the oppressed classes that smoke the best cigars. In this case, however, there is a great equality in the price of the great bulk of what is consumed, which runs from 3*d.* to 6*d.* per lb. But the excessive specific duty upon one article, can by no means be used as an argument in favour of a similar one on another, especially if that duty is admitted to have arrested consumption and revenue, and to have given rise to excessive smuggling. The specific duties on wines and foreign spirits are equally an argument against imposing a specific duty on teas; for the reason, that these duties have arrested consumption, limited

it to the upper or middling classes of society, and proved prejudicial to the revenue on these articles, which is at the present moment little more than one-half of what it was thirty years ago.

In all the articles just enumerated, the difficulty of classification is an obstacle to the imposition of rated duties, and to the realization of a large revenue. No such obstacle exists in regard to tea, and the experience of the United States for forty-four years affords a practical proof of it. The witnesses examined before the Committees of the House of Commons, consisting both of citizens of the United States and of Englishmen who had long resided in that country and been engaged in the tea trade, testified not only to the extent of the revenue realized on this principle, but also to the facility and the convenience with which it was raised. But the official documents of the United States afford still more satisfactory proof of this important fact. The following table shows the quantity of tea which paid duty in the United States for two years; the rates of duty levied; and the amount of duty yielded by each particular class of tea.

Whence imported.	Tea.	1827.			1830.		
		Quantity.		Duty.		Quantity.	
		—	Per lb.		—	Per lb.	
			Cents.	Dollars.		Cents.	Dollars.
China	Bohea	18,682	12	2,242	118,925	12	17,871
	Souchong, Congou, &c.	1,562,749	25	790,587	1,607,222	25	401,806
	Hyson Skin, &c.	1,107,975	28	510,235	1,314,229	28	367,984
	Hyson, and Young Hyson	2,452,241	40	980,896	2,812,646	40	1,125,058
	Imperial, Gunpowder, Peko	231,709	50	115,855	273,246	50	136,623
Other places	All sorts, extra duty	..	..	1,056	..	..	471
All places	Total	5,372,906	53.52	1,800,849	6,156,268	33.28	2,049,815

In the first of the years named is found a revenue, at the exchange of 4s. to the dollar, of 360,170/.; and in the second of 409,963/. The average rate of the duty in the last named year was thirty-three cents and twenty-eight hundredths of a cent, equal to about 1s. 5d. per lb. Now, had this duty been levied as a specific duty on all teas, it would have amounted, on an average, to an *ad valorem* duty on Bohea of 234 per cent, on Congou 104, and on Hyson only 47 per cent; instead of the duties actually paid, which may be estimated at about 83, 81, and 58. No one will presume to think that under these circum-

stances the same amount of revenue could by possibility have been raised.

The American revenue derived from tea was not only large in itself, but, until within the last two or three years of its existence, formed the largest branch of the American revenue derivable from any one article of consumption. In 1830, it much exceeded the revenue derived from foreign wines and spirits; and exceeded that of coffee, notwithstanding the great consumption of the latter, by near 40,000*l.* sterling. In 1827, the tea duties exceeded the sugar duties by upwards of 24,000*l.* In 1830, the sugar duties exceed the tea duties, by the large sum of 180,000*l.* sterling. This rise in the sugar duties may in a great measure be ascribed to the great consumption of coffee, and to the low duties both on this article and on sugar itself; the latter being only about 1½*d.* per lb.. The consumption of sugar in the United States had in fact increased in the three years following 1827, from 55,123,515 lbs. to 96,387,358 lbs., or by 75 per cent. There is another circumstance however, which ought here to be adverted to as having contributed to so extraordinary an increase of the consumption of sugar in so short a period,—the decrease in the consumption of molasses, which in 1827 amounted to 13,127,933 gallons, and in 1830 to no more than 9,866,378. This arose from the duty on that article having been doubled, or raised from 2½*d.* to 5*d.* The error was corrected in the following year, by reducing the duty on molasses to the old standard. The consumption of this article increased in the year following to 15,445,543 gallons, and the consumption of sugar dropped down to about 70,000,000 of lbs. This striking fact is mentioned in illustration of the advantage of low duties, and as being strictly applicable to the tea revenue. It may be held certain that the difficulty of classing sugars and coffees, has alone prevented the imposition of a rated instead of a specific duty on these articles in America. The Americans have done the next best thing, and the only thing that can make the other tolerable,—they have made the specific duty very low. It may here be observed, that although the American rated duties afforded the model after which our own were framed;—although they were acknowledged in evidence by a member of the India Board to have been so, and although it was shown that for near half a century a large revenue had been conveniently collected under their operation;—not the least reference is made to them by the advocates of specific duties. Indeed ‘the Tea Trade’ has put forth a pamphlet of near sixty pages, which has come to a second edition, and in which the American duties are not mentioned either in text

or notes. In lieu of such testimony, however, the manifesto of the Tea Trade abounds with the assertions of those who had fattened on the abuses of the old monopoly, and passed their lives in writing and speaking in its defence.

The only redeeming quality in the old system of taxing tea, consisted in the duties being charged on the value of the article, and being therefore an equal tax on consumers of all classes. In every other respect, it was utterly indefensible. It was pretended that the consumer received better tea than could be furnished under any other system. Samples of tea of every quality were imported by the public authorities from all the great emporia of tea,—examined and priced by the tea-brokers of Leadenhall Street; and the experiment proved that the East-India Company were selling teas of the same quality at cent per cent more than the free traders of the Continent and of America. It was said that a great revenue, of three millions and a half, was yearly collected and paid into the treasury by the East-India Company ‘without any charge to the state,’ or at least without anything beyond the expense of maintaining the Excise establishment engaged in superintending the details of storing and selling tea at the India-House, which little exceeds 10,000*l.* per annum. The reply to this was, that the Excise, Custom House establishment, and Preventive Service, were equally engaged in protecting the revenue derived from tea, as in protecting that derived from brandy, tobacco, or any other commodity; and that besides this, the Company exacted an extra charge of two millions sterling per annum, being their monopoly profits;—in short, that besides its share of the cost of the general fiscal establishments, the country paid an additional charge of two millions sterling for every three millions and a half which was given to the treasury, or an extra charge for collection of 57 per cent.

Under the operation of the monopoly, the consumption of tea, in reference to population, continued stationary; or in fact declined. In 1821, the consumption per head, in ounces, was $19\frac{92}{100}$, and in 1831 only $19\frac{79}{100}$. Every other article of general consumption had meanwhile increased. The vast increase in the consumption of coffee produced by the reduction of duty, has been already referred to. But articles on which the duty was stationary, and, at the same time, infinitely too high, had also increased. Thus the consumption of sugar in 1821 was only 14 lbs. per head, and in 1831 it had risen to 16 lbs.

The revenue on tea declined in a still greater proportion than the consumption. On the average of the three first years of the Company's last charter, or from 1814 to 1816 both inclusive,

the net amount of the tea revenue of the United Kingdom was 4,126,213*l.*; on the average of the three years ending with 1823, it was only 3,834,058*l.*; and on the average of the three years ending with 1833, it was only 3,432,952*l.* In short, in a period of twenty years, and after an increase of population from 19 millions to 25 millions, there was a decrease of revenue amounting to near 700,000*l.* sterling per annum. With a tax equal to 300 per cent,—with the sales confined to a single spot in the kingdom, and there, under the hereditary control of ‘the London tea trade,’—it is no wonder that such should have been the result.

The present scale of duties on tea is far too high, not only as regards the interest of the consumer, but even for the purpose of realizing the highest revenue to the state. That scale, even for this last purpose only, should not only be better graduated, but the amount levied on each class of tea very considerably reduced. If the duties levied in this country were very little higher than those which have heretofore been levied in the United States, the great probability is, that the consumption would be so vastly increased, that a duty equal to what is now raised might be collected from them. Upon a consumption of 6,156,268 lbs. of tea, the American government, as has been already stated, drew in 1830 a revenue equal to 409,963*l.* A consumption of 40,000,000 lbs. of tea, which is not an unreasonable estimate on the supposition that prices were brought down at the same time by the destruction of the monopoly and the reduction of the duties, would yield, at an addition to the American duties of about 28 per cent, the average revenue of the three years ending with 1833.

The consumption under the monopoly system, has been in round numbers as high as 32,000,000 lbs. weight; which in round numbers cost the consumers 3,500,000*l.*, about 2,000,000*l.* of this consisting of the extra charge of the monopoly. The removal of the monopoly alone, therefore, to say nothing of the reduction of the duties, would cause more than double the former sum to be laid out in China towards increasing the consumer’s tea, supposing him to continue to expend the same sum on tea as before. And though this must be met by the two other facts, that the consumer will *not* continue to expend the same sum on tea as before, and that the price of tea in China will rise,—it is hard if such enormous burthens taken from the price at home, will not cause the consumption to rise by one-fourth, or from 32,000,000 to 40,000,000 lbs.

Such an extent of consumption is, however, not to be

looked for in the first or second year of free trade but in a period as short as five years, it may be safely reckoned that this estimate will be realized. In so far as the first year of free trade is concerned, the causes which will prevent a greatly extended consumption are very obvious. During the first six months of it, no free trade tea was admitted; while the sales of the monopoly tea were not only limited to the old quantities, but these quantities even reduced. The amount of the actual quarterly sales within the year have been limited to something less than thirty-two millions (31,934,450) lbs. Besides this amount, there have been sold for consumption about four millions of lbs. imported in free trade, which will thus far raise the whole consumption to thirty-six millions of lbs. It is however to be observed that the teas thus imported have been purchased out of season, and that the great supply of tea afforded by the China market, which is commonly shipped in December and January, will not arrive here before March and April. That supply will amount probably to at least forty millions of lbs.; and with the reduction of price which it will effect, it will certainly be safe to estimate that at least four millions of lbs. of it will be sold and duty paid during the two months of March and April. This will raise the consumption to the 40,000,000 lbs. at which it has been estimated; and 40,000,000 lbs. of tea will raise the revenue, at the present scale of duties, to near 4,400,000*l.*, a larger amount than it ever attained before; while it will raise the consumption from 19 $\frac{7}{100}$ ounces per head to 26 $\frac{1}{100}$ ounces, or only a little more than thirty-three per cent.

The consumption of the second year of free trade may be safely taken at the amount of 45,000,000 lbs., and the quantities of the different classes of tea in nearly the same proportion as under the *ad valorem* duty, with some enhancement in those of the higher qualities consequent on the reduced tax on them. The American scale of duties embraces five classes. One of these, the class which includes the lower Greens, differs from that which includes Congou and Souchong, by no more than three cents or 1 $\frac{1}{2}$ *d.* per lb. Such a distinction appears superfluous, and in fact is not founded in reason; for in the markets of China, the prices of the teas thus differently classed by the Americans are as nearly as possible the same. The classes of teas therefore may safely be reduced to four. In the first class may be placed Bohea, by itself; upon which a duty of 1*s.* might be imposed, being a reduction of 6*d.* from the existing rate. In the second class, may be placed all black teas whatsoever, with the exception of Bohea and Flowery Peko, and all low green teas whatsoever. These may be enumerated as follows, and ought

all to be inserted in the schedule ; Congou, Campoi, Souchong, Ankoï, Orange-Peko, Black-leaved Peko, Capér, Padre, Souchi, Tetsong, Hong-muey, Singlo, Twankay, and Hyson Skin. The duty on this class may be fixed at 1s. 6d., which is a reduction upon the present rates of 8d. per lb. In the third class should be included two descriptions of green tea only, namely Hyson, and a variety of it, Young Hyson. The duty on this class may be fixed at 2s. 6d. ; a reduction of 6d. from the present rate. In the fourth and last class will stand Gunpowder, and a variety of it called Imperial or Gomee, with Flowery Peko. The duty on this class may stand as at present, namely, 3s. These rates of duty are calculated from the relative prices of tea in the Canton market, and bear perhaps as near a reference to their respective values as is practicable in a rated scale of duties. The following statement shows the surmised consumption of each, the rate of duty, and the revenue.

Class.	Tea.	Quantity.	Duty.	
			Per lb.	Total.
		lbs.	s. d.	£.
First.....	Bohea	9,000,000	1 : 0	450,000
Second	Congou, &c. ...	32,625,000	1 : 6	2,446,875
Third	Hyson, &c.	2,250,000	2 : 6	281,250
Fourth	Gunpowder, &c..	1,125,000	3 : 0	168,750
Total		45,000,000		3,346,875

There is here a duty nearly the same as that which has for some years back been derived from tea. At these rates, a consumption of 50,000,000 lbs. would raise the revenue to upwards of 3,700,000*l.* ; a consumption of 60,000,000 lbs. to upwards of 4,000,000*l.* ; and a consumption of 74,000,000 lbs. to upwards of 5,000,000*l.* sterling. The tea duties would then constitute, as they ought, the largest branch of the public revenue ; and this, there is not the least doubt, it will ultimately become. As long as duties are to be raised on articles of consumption at all, it must be admitted that tea is one peculiarly fit to be the subject of them in this country. The article, for mercantile purposes, is produced in one country only, and for the most part exported from one part only of that country. It is bulky and perishable, and therefore inconvenient for the contraband trade. Under a free trade, the price of tea will be as low, and indeed

somewhat lower, in this country than in any continental port, and therefore it is very unlikely that the smuggler will import it from the latter. On the contrary it must be brought from a great distance, and consequently in large vessels and by considerable capitalists; which are additional securities against smuggling. Then, of all the great staples of our consumption which come under the denomination of necessary luxuries, it is, with the exception of sugar, that of most universal consumption; for there are no other articles but these, which are of universal use by all classes, both sexes, and almost every age. This of course, is another ground for its eligibility for taxation, as far as a productive revenue is concerned.

With the scale of rated duties above proposed, the consumer may have Bohea at from 1s. 6d. to 1s. 8d. per lb.; Congou and Souchong at from 2s. 6d. to 3s. 2d.; Hyson and Young Hyson at from 4s. 8d. to 6s. 2d.; and the finest Gunpowder, often sold in the good old times at from 14s. to 16s., at 7s. Even the rates of duties here suggested are still much too high; for on an average they exceed 100 per cent on the value of the article, and it would be the business of a prudent and patriotic government to reduce them from time to time. Even under a bad system, the extended use of tea in this country has already produced a happy and salutary effect upon the manners and morals of the people. A French writer, M. Malte-Brun*, complains that 'in England, the immoderate use of tea has diminished that of beer, even among the people.' There is probably much foundation for thinking that the use of tea has contributed greatly towards displacing that of malt-liquor, which is known to have continued stationary in this country for more than a century, while that of tea has been multiplied in the same time a hundred-fold. That the use of tea has been immoderate, however, is anything but true; and it cannot be questioned that the substitution, to the extent to which it has been carried, has added to the morality of the mass of the people. The favourable effects on the comfort and regularity of seafaring men, have been particularly remarkable. Raynal insists that the general use of tea has done more for the morality and sobriety of the Chinese, than the laws of Confucius and the edicts of the Emperors; and there is little doubt but he is in the right. In this country, in the same manner, there can be little hesitation in asserting, that an extended and general use of it will have a more salutary influence upon the manners and morals of the lower classes of the community, than sermons on sobriety, admonitions

* Précis de la Géographie Universelle, livre cent-quinzième.

from benches of justices, or the examples of Temperance Societies.

An attempt must be made to explain the reasons which have urged the London tea trade, with such perseverance and importunity, to insist with the legislature upon one rate of duty for all teas,—a rate which would make the poor man pay a tax of above 300 per cent, the shopkeeper one of 150 per cent, the gentleman one of 100 per cent, and the nobleman one of no more than 50 per cent.

• One specific duty would, in so far as the merchant is concerned, and in so far as the supply of genuine tea to the public is concerned, be the same thing as charging no duty at all. The officers of customs would in this case simply weigh the chest, and ascertain that it was what is called *tea*, without caring a straw whether it was Bohea, or Congou, or sloe-leaves. It would not be their affair to do so. The duty to be levied is on tea; and having ascertained that the contents of the chest are tea or something like it, they would mark it tea and so have done with it. Under the present rated duties a few chests of tea from every lot must be examined by the revenue-officer, and every quality of tea must be determined by such examination, and marked on the package. This is of course, to a certain extent, a certificate of kind and of quality which must accompany the tea until it reaches the consumer. The London tea-dealers who heretofore had the whole affair in their own hands, find such examination and certificates somewhat inconvenient. The question put to one of these gentlemen last year, and the answer received, were as follows :—‘Are the committee to understand that the tea trade in England is a trade of admixture? Certainly; it is acknowledged to be so.’ The same gentleman, upon being asked for what purpose the 6,000,000 or 7,000,000lbs. of Bohea tea were imported into the country, replied that they were ‘principally mixed*.’ The truth seems to be, that the practice of the London tea trade has been to mix the inferior with the superior teas, and to dispose of the mixture to their customers under the highest denomination; and that it was rarely that an unbroken package of tea was either sold in town or sent into the country. ‘Do the tea-dealers mix their teas?’ said the committee of 1834 to Mr. Wybrow; and his reply is ‘I understand they do. I have heard that they mix their teas; I have heard it from conversations I have had with brokers, and I have seen a mixing-trough in a dealer’s warehouse.’ ‘By tea-dealers,’ added the committee,

• Report on Tea Duties, p. 33.

‘do you mean wholesale?’ And the reply is, ‘Yes, wholesale.’ The tea-dealers examined by the Excise commission are still more explicit. ‘Heretofore,’ said one of them, ‘the great wealth that has been acquired by the trade has been, in my humble opinion, most honourably acquired by a practical knowledge of the article, and by a knowledge arrived at only by great experience in the qualities of the different kinds of tea, and a knowledge of admixture and blending of various qualities of tea together*.’ For the same reason that the London tea trade is hostile to the rated duties, it is also hostile to the system of taking stocks, and that of permits in removing teas; while the country traders are favourable to them, because they afford some means of judging of the quality of the tea. The system of taking stocks and demanding permits for the transport of tea, is far from being justifiable, but the real objections to be urged against it, are very far from being the same as those which actuate the London tea-dealers in opposing them.

The tea trade of London had been in full possession of their own branch of the tea monopoly for several generations, and so accustomed have they been to exercise a control over the consumption of the nation in this article, that they cannot endure to share it with others, with a good grace. If the reader has never been present at one of the quarterly sales of tea at the India-House, he ought speedily to avail himself of one of the few remaining opportunities that he will have of gratifying his curiosity by the sight of an exhibition which is unique of its kind. None but the established brokers have by precedent the privilege of bidding, and if strangers enjoyed it, such is the rapidity of the biddings, and the jargon in which they are made, that the uninitiated could not avail themselves of it. If the whole proceeding had been in a foreign country, and the language of the speakers Hebrew, an ordinary English purchaser would not be more at a loss than at one of these strange shows. A Director of the East-India Company, perhaps a military officer who has gained glory in the wars of the Carnatic, or an Indian financier versed in all the mysteries of the Land-tax, or an eminent lawyer who knows all about the Mohammedan and Hindoo codes, or a great Orientalist who is better acquainted with the roots of the Arabic language than the leaves of the tea plant, presides, or pretends to preside, in order to decide disputes; but is in reality an utter cipher, in the hands of the vehement and clamorous members of the tea trade.

* First Report of Excise Commission, p. 146.

Of the influence which the tea trade has heretofore possessed, there are two recent and striking examples. In the March sale of 1834, one gentleman, acting as agent for the rest, purchased the entire Bohea teas put up for sale, at an advance of one farthing per lb., although the quantity amounted to between 1,000,000 and 2,000,000lbs. What was done with the Bohea might of course have been done with every pound of every other tea offered for sale, and consequently the supply of the nation, with what the nation paid as tax, viz., 7,000,000*l.* sterling, might have been under the control of the tea trade. This undue exercise of power on the part of the tea trade, was, however, too monstrous to be endured, and the tea trade was obliged in the end to succumb and surrender its bargain. The present high price of teas, and indeed their price ever since the cessation of the monopoly in April 1834, affords another irrefragable proof of the control which the London tea trade has ever been in the habit of exercising. At the close of the monopoly there existed a stock of tea in the East-India warehouses amounting to 65,000,000lbs. Instead of throwing this at once into the market and letting the consumer have the early benefit of cheap prices, the 'tea trade' have contrived to influence the government and have it doled out by quarterly sales, in the same, or even in less quantities than in former years, and the result is that the whole of the teas which have been sold in England, as yet, have been at monopoly prices, little lower than under the old system, and thus with a stock of tea in the country down to the present moment, the property of the state, amounting to 34,000,000lbs.

Even before the cessation of the monopoly, however, it should be observed that the monopoly of the old London tea trade had been in some measure, although not entirely, broken in upon. With the interlopers who have brought this about, and who while in pursuit of their own interests were public benefactors without knowing it, the gentlemen of the established tea trade are as indignant as with the authors of the 'rated duties.' 'The fact is,' says one of them, 'that within the last eight years the system of the tea trade has been altogether changed, as much so, or more, probably than any trade in this great metropolis; and that change has arisen from certain parties, not being brought up thereto, who have embarked in it. Other trades have had their inconveniences in like manner, but the tea trade has met with a scourge which I venture to assert that no other trade has done, and by means the most dishonourable. The aforesaid parties have gained the confidence of some of the country trade by having grounded a new system, one quite

unknown twenty years ago, and which I myself think as inferior to the old as possible*.' It would seem that the system as inferior to the old as possible, consisted in selling tea at a cheaper price,

It is certainly high time that a stop should be put to the pernicious system which sprung out of the old monopoly; and if the government should have the wisdom to persevere in a rated scale of duties, the competition of a free trade will soon effect every other reasonable object. The London tea trade, or at least the London trade, after all should be told they have substantially nothing to apprehend. They will always have their share, and a great share, in the tea trade; and in due time that share will be greater than the entire monopoly which they have heretofore, to the infinite prejudice of their fellow countrymen, possessed. They will have the supply of the metropolis with a million and a half of people, the supply of some of the midland, eastern, and northern counties of England, and of a considerable portion of Scotland; and they will have more of a foreign trade of export, which under the monopoly did not exist at all, than any other port in the kingdom. In the same manner as the tea trade now complains, the East-India merchants of London complained in 1814, that they should be ruined by the partial opening of the Indian commerce to the outports. No such result has followed, but quite the contrary; for London possesses now, not only more of the Indian trade than all the rest of the ports of the kingdom put together, but a far more extensive and beneficial trade in every respect, than when the whole intercourse was confined to itself.

ART. VII.—*Kearsley's Annual Tax Tables for 1835.* — pp. 112. London; Hodson. 1835.

THE popular opinion in favour of a Property-tax is gaining ground. But its advocates usually exclude from it all idea of an Income-tax; the inquisitorial nature of which is the chief ground of objection. It is not a part of the objects of this journal to encourage the robbery of one class by another, nor to visit existing injustice by a revenge as unreasonable. It is good policy that all should bear their fair share of the public burthens. The exemption of any must be a source of jealousy, and of consequent danger to the general freedom. What constitutes the fair share, is at present the matter to be solved.

Taxation is levied for the necessary uses of the Government,

* First Report of Excise Commission, p. 146.

the chief scope of whose exertions should be directed to protect the persons, the liberties, and the property of everybody in the nation. In the first respect, all have an equal need and share of protection; therefore on that account all should bear their quota of taxation. In the second respect, the need is unequal; and the share unequal; as the possessions of individuals are not equal. The latter should therefore in respect to their possessions, and with some certain relation to the difference in their magnitude, as compared with those of others, pay an additional share.

It has been the chief difficulty to discover by what means these proportions should be determined, and how levied. The natural aversion to pay money when its uses are not directly perceived, and the still more natural aversion to pay it for purposes unnecessary or worse, has led to the imposition of indirect taxes, by which no one knew what he paid; so that being ignorant of the amount of the burthen as well as of its application, his feelings were not directly, by the act of payment, wound up to indignation.

Under cover of this indirectness the taxes have accumulated in amount beyond the means of the public to bear; and this, added to the other sources of extortion supplied by monopolies of different kinds, has led to a general outcry against taxation, as the most obvious of the evils.

Taxation may not be, and is not, the main cause of suffering; but it would be good to get rid of it, if it were only that by dismissing the known, the unknown may be detected. Protesting therefore, in the manner of legal wariness, against the supposition that the exposure of one evil is an admission of the innoxiousness of another, an attempt will be made to put the question of a Property-tax on its right basis.

The first principle is, that all should contribute.

The second, that the contribution should be according to the means of each.

The inquiry that follows must be directed to determine according to what evidence of means the contribution should be assessed.

All property on the surface of the earth is tangible and visible; the greater portion pays rent, which may be always taken as the measure of its value; and of that which does not, the value may be ascertained by comparing it with what does. The funds, the dividends of public companies, money lent on mortgages, annuities and salaries in public offices, may all be reached without difficulty.

But how shall be reached income arising from commerce, trade, manufactures, professional exertions, wages of labour, as

of servants, artisans, and the like. To make inquisition of each, is both annoying and difficult to the last degree. Are there no signs that might stand in the place of an obnoxious inquiry, and still preserve the principle. Every man lives in a house; which commonly bears a certain proportion to his means. Might not the house, for instance, be taken as one of the signs by which a man's property should be estimated, and a considerable portion of the necessary revenue be levied accordingly? And by selecting a greater or less number of signs on the same principle, might not the whole revenue be made out? If the owner have been taxed for property elsewhere, then may he cause to be deducted from his assessment an equal amount. If on account of the largeness of his family he be compelled to live in a house beyond his means, then ought a reduction to be made according to the number of his children. The last is the only case in which the necessity can arise. A similar reduction might be made to professional men and shopkeepers, for a certain proportion of their houses occupied as offices or shops, or warehouses or workhouses.

But by far the greater number of persons might be reached, without reference to the sign, which must be in some degree uncertain. All wages, all salaries, and they form by far the largest part of payments, might be reached through the masters; and then, only that smaller number of persons who are trading capitalists, would require to be reached through the machinery of a house-tax.

Of these the majority, more disposed to live on their means than to stint themselves in order to escape the house-tax, would be reached in this way. The remainder, who might for convenience live in lodgings, would be reached by the tax on lodging-houses, an exemption being allowed to the owners only for that period during which they were empty; a return of which might be made monthly or quarterly, in order to give opportunity of inquiry.

But if a few should escape, it would be precisely that portion which, if not in excess, might be exempted with the least injury to the commonwealth. Men either spend or save; whoever spends, puts in motion a proportionate quantity of labour, which being recompensed in wages, would of course be subject to the tax; and as few people now hoard money in boxes, but put out their savings to use, the same rule would apply in the last case. Individuals may escape taxation now, and do escape it, if they chuse to spend nothing. But if *they* spend nothing, somebody else at some time will spend it for them; so that the whole will be taxed in the end. There is therefore nothing in the new plan, that does not exist in the old without complaint.

It will be said, however, that wages ought not to be taxed. They ought not to be taxed partially, as they are now; but if all are subject to the same tax, and still more if the rich paid not only a greater amount but at a higher rate as they ought to do, it would be a heavenly change for the industrious classes.

The justice of the rich paying not only a greater amount but at a higher rate, is grounded on the principle that every man should pay, not according to what he has, but according to his superfluities. At the same time it is not contended that the difference of rate should be very great. But it should be *something*; if it was only to prevent the consequences of the abandonment of a just principle. It is abandoned *now*; and the consequence is that the taxes are laid not in proportion to a man's riches but to his poverty*.

When a slightly increased rate on the rich was proposed lately in the House of Commons, the cry was raised of *confiscation*. But not a word of confiscation when 'the Trades Unionist that washes his face with brown soap, was made to pay double the duty of the fine lady for whom he keeps a carriage out of his bread†.' The landholders too objected, that a tax on landed property would in time amount to the market value of the land. As if the same would not happen to the holder of any other species of property, if he did not *pay the tax out of his annual expenditure*. The plea of the landholders therefore was, that they must not be taxed, because *it would diminish their expenditure*. In other words that the landed interest must not be taxed, because the landed interest does not mean to pay taxes.

The poor have never proposed to tax the rich at three or four times the rate of themselves; they would be scoundrels if they thought of it. That this is what the rich have done to the poor where they were able, is not matter of imagination, but of history. A fair composition, and what the numerous classes, if justice is done them timely, would probably be content with,—would be that the increased rate upon the higher properties, should be such as in perpetual value would as nearly as possible be equal to the actual losses that have been inflicted on the poor, by the system of making the poor pay the taxes for the rich which makes so principal a part of what the Tories call 'our valued institutions.'

It has been customary to look back to the old Property-tax and exclaim that a sufficient sum could not be raised. That

* For illustration see the Article on '*Aristocratic Taxation*,' in the Westminster Review No. XLI, for July 1, 1834.

† See Art. on '*Aristocratic Taxation*,' p. 142. See also the Article on a '*Property Tax*,' in the Westminster Review No. XXXVII, for July 1, 1833.

was a tax added to many other taxes of the highest pitch of burthensomeness. But even then, supposing a fair and equitable measure to have been come at, it would have been practicable to lay the whole taxation gradually on property, and reduce the other taxes. If it were proved, for instance, that the quantity of snuff men took was an equitable measure of their property, it would be abstractedly possible to levy the whole revenue by a tax on snuff, or at all events it would not be any arithmetical obstacle that would prevent it. The property that has been raised since 1816, in addition to what then existed in the country,—the capital that has been called into play by the increased wants of a largely augmented population, and the wages of that population, so far as it is employed,—would, however, furnish an abundant field for any equitable scheme of taxation.

The beauty of such a scheme of taxation would consist in its putting down those worst species of taxes, the customs and the excise; which depress, cripple and confine the employment both of industry and capital, and present precisely the same specimen of genius that would be afforded by attaching the burthen of a horse to his fetlock instead of his back.

If it were thought too adventurous to make the whole change at once, the excise might be first abandoned, and the most oppressive of the customs. But the simplicity and excellence of the method, its fairness to all classes, and the fact that it is a substitution for, and not an addition to, present taxation,—a substitution too that would bring with it an immense reduction to the consumer, with a corresponding return to the revenue,—would not be apparent, unless the change were made in considerable masses.

The agricultural interests would find their condition improved by the abrogation of the burthensome charges to which their dealings in land are subject; and that species of property would rise greatly in value on that account alone.

The Tories would argue upon the political evil of direct taxation;—that the people would feel the burthen, and resist it;—that the government of the country would be in the hands of the people, who might resent any political tyranny by a refusal to pay their taxes. All this is undeniable, and precisely the thing that ought to be. Government should be made to feel that it exists on the condition of good behaviour. Legislators want the same salutary control; and there will grow up, when this shall exist, a more observant regard to the justice that is due to all. The people would pay according to their government. They would measure its usefulness by their contributions. For projects approved, they would willingly contribute; for extravagances,

they would give nothing. If they found the prosperity of the state gave to the capitalist a fair profit, to the labourer fair wages, to all a cheap and prompt administration of justice, they would love and cherish the government; and though there might still be things to disapprove, they would not fear the want of a remedy.

Is there no chance that the people may be driven by the bad example under which they live, to disregard the rights of property? As yet they have not been the spoliators; as might be shown by manifold instances. What would the aristocracy say, if the people were to tax them three or four fold, as they now tax the people? Is there no remote possibility that the people may attain the power of paying off old scores? And would there be no policy in coming to something like a just arrangement now, as the means of softening retaliation for the past?

To recapitulate, the object of the present Article is to show, that whenever the people ~~can~~ so far compass justice as to establish the principle of ~~laying~~ taxation upon Property with a fairly increasing rate on the higher incomes, it would be possible to preserve the spirit of the rule, and escape the difficulties attendant on an inquisitorial examination into property. *Let them get their own men to the helm, and they will see.* Till then, they must be content to be the beasts of burthen of the rich, to pay their taxes for them, and maintain them in splendour out of their children's bread.

ART. VIII.—1. *Observations on the Principles to be adopted in the Establishment of New Municipalities, the Reform of Ancient Corporations, and the Cheap Administration of Justice, addressed to Henry Hallam, Esq.; together with the Heads of a Bill for the future Regulation and Government of Corporations.* By Sir Francis Palgrave, K.H.—London; Hatchard and Son. 8vo. 1833.

2. *The History of the Boroughs and Municipal Corporations of the United Kingdom, from the earliest to the present time: with an Examination of Records, Charters, and other Documents, illustrative of their Constitution and Powers.* By Henry Alworth Merewether, Sergeant-at-Law, Solicitor General to the Queen; and Archibald John Stevens, M. A. F. R. S. Barrister-at-Law.—3 vols. 8vo. London; Stevens and Sons, &c. 1835.

THE history of the English Municipalities, duly elucidated, would be as fine a lesson in social progress and political science, as the experience of the past in any age can give; for these institutions long embodied all that could be called national in spirit or in form, and were the chief sanctuaries of those political feelings which have distinguished England from every continental state.

How few are there who would expect to find the present corporations derived from honourable communities of free men, composed of the whole of the householders of each borough, enjoying a natural equality of rights, and a republican integrity of self-government. And yet that such was the case, is proved by evidences as numerous, at least, as the charters of all those of any antiquity. It will be equally interesting and satisfactory, therefore, to trace a rapid sketch of the early condition of these municipalities, commencing with the remotest period, not for the sake of establishing a position in the mists of antiquity, but to render the knowledge of its strength the more complete.

The number and importance of the English burghs at the time of the conquest by the Normans, which necessarily established a feudal system, is abundantly evidenced by the Domesday survey, the earliest general record of their condition extant. Although this is the era of the commencement of documentary evidence, a retrospective light is thrown into the gloom of earlier ages. What were the liberties of the free men of Saxon England, is still rendered a matter of useless dispute, by arguments advanced to prove that a system of feudal violence existed in this island previous to the Conquest. If so, the military force of the country must, previous to this period, as after it, have been possessed by a dominant caste and their dependents. But the might, which has ever been the governing influence in human affairs, was in reality far differently vested; all military expeditions were furnished by the people at large to the king or his deputies in the mode of a militia, the men being required to serve only a certain number of days, and receiving their pay directly from the people who respectively sent them. There was in fact in the constitution of Anglo-Saxon society, no oppression which required a constant bearing of arms to perpetuate it; the king required the concurrence of the people in every important act of his government, and obtained it either in the Witenagemote, or in the assemblies of the shires or of the several states.

The king, says Mr. Sharon Turner, was lord of the free; and under his protection free men, settled in towns, became free burghers or burgesses. The original relation of the burgesses to the king appears to have been that of tenants paying a trifling ground rent, fixed in perpetuity, as a sort of tribute; and from the infrequency of any considerable part of a large borough, in the time of Edward the Confessor*, standing

* The Domesday survey, states the situation of each borough with regard to rents, &c., in the time of the Confessor, as well as at the period when it was taken, which was twenty years after the landing of the

on a private proprietor's land, the antiquity of the Anglo-Saxon settlements in towns probably dates from the earliest period of the Saxon colonization of Britain, before even the most valuable territorial property, which is such as is found in the favourable situations which the towns occupy, was fixed in individual hands. The oldest Saxon burghs indeed, our Germanic ancestors found ready built, being the ancient Roman British cities, which have preserved their earliest names to the present day under a Saxonized form. The earliest payments rendered to the King by the burgesses were necessarily of the simplest nature, and yielded in kind, either in commodities or light personal services. Of rents in this rude form, a perfect example is given in the duties rendered by Hereford at the time of the Conquest. [Introduction to *Domesday Book*, vol. i. p. 195.] These burthens were always definite, and never oppressive; and before the time of the Conquest, they had in most cases assumed the more civilized form of a light specified rent or tribute, frequently rendered in one sum by the whole body of inhabitants, in lieu of all 'customary payments.' They were thus communities of freemen, for which the power of mutual taxation for the payment of this rent, alone was a sufficient bond; and the holding their several towns together with some adjoining lands in this mode, gave them the most important attributes of what is now called a Corporation.

Each burgess had a tenement which he might freely sell, or at his death bequeath; and the only public burthen besides the trifling general rent, was the *fyrde* or military contribution, regulated by custom, borne by the townsmen in common, and always very light. These duties discharged, they then owed nothing, but formed an independent body. Like the other northern races, the Anglo-Saxons were united into small communities of equal number (here called *tithings*), which, though having an integral existence, were united with a certain number of others to form a larger body (the *hundred*), and these again were combined in greater assemblies (those of the shires, and the several petty states). In the boroughs, as in the country generally, the inhabitants followed the same plan of union, and some of the boroughs formed one or more

Conqueror. This body of evidence has recently been thrown open to the historian and antiquary, by Sir Henry Ellis, in his 'General Introduction to *Domesday Book*, accompanied by Indexes, &c.' 'The historian,' observes Sir Henry, 'may extract results from it which are in vain sought from other sources. It shows, in detail, the number of years that elapsed before England recovered from the violence attendant on the Norman Conquest.'

hundreds, with a popular assembly, possessed of at least the same powers for self-protection, and for the administration of justice, that the others had. 'The jurisdiction of the Burghmoot or Portmoot,' says Sir Francis Palgrave, 'differed from that possessed by the analogous districts in the open country, only in consequence of the police required by a more condensed population, and the institutions, perhaps of Roman origin, which incorporated the trading portions of the community*.' The purely popular nature of the assemblies of the hundreds, in which even all sales or transmissions of property were made public to substantiate their legality, are too familiarly known to require specification; and the larger cities with their general assemblies had attained, previously to the Conquest, such strength and importance as to claim the character even of petty republican states. 'The mode of accepting the statutes made by the Witan, and of carrying them into effect, depended upon the deliberations of the Burghmoot, and the discretion of its members, and London was as much entitled to the name of a distinct state or community as the Kentish kingdom†.'

Domesday Book contains among many scattered particulars of the situation of the boroughs, a partial exemplification of the liberties of Exeter, whose citizens fought with remarkable valour to maintain them. When William came against them in person with his army, the townsmen promised him true payment of all the old claims of their kings, but refused to become his men or vassals according to the feudal plan, or to admit him within their gates, and likewise alleged their freedom from the militia tax, except when it was agreed to by the capital cities of London, York, and Winchester. In support of these rights, the citizens defended themselves with the greatest obstinacy for several days; but were at length compelled to surrender, with a pardon and freedom from plunder, and the king built a castle to keep them for the future in awe. In Domesday Book, Exeter is entered as a demesne city of king William, who had in it 285 houses which paid custom. It paid 18*l.* a-year,* 12*l.* to Colwin for queen Edith, and 6*l.* to Baldwin the sheriff. In it were 48 houses ruined since the coming of the king into England. In the time of king Edward, it is specially noted, this city did not pay geld, unless when London, York, and Winchester did so, and then the geld was half a mark of silver for the use of the soldiers [*'ad opus milit'*]. When there was an expedition by land or by sea, this city served as for five

* Rise and Progress of the English Commonwealth, vol. i. p. 633.

† Rise and Progress of the English Commonwealth, vol. i. p. 103.

hides of land. Barnstaple, Lidford, and Totness, altogether served for the same quantity of land as the city did. The burgesses of Exeter had twelve carucates of land lying without the city, which land paid no custom of geld, except to the city. [Domesday: Devenescire, fol. 100.] It is worthy of especial notice too, that in the hundred rolls of the 2nd of Edward 1. the 24 jurors for Exeter depose to their right to the return of writs, the assize of bread and ale, and all that they enjoyed 'both before and after the conquest of England,' including the liberties and free customs of London, &c. Closely analogous was the situation of the other principal boroughs at the Conquest; and the two following notices are selected from many in Domesday of similar character.—

'At Colchester there were in common among the burgesses four-score acres of land, and round the wall of the town eight perches, of all which, the burgesses, at the time of forming the survey, had 60s. a-year for the king's service, if necessary, but if not they divided that sum in common.'—*Introduction to Domesday*, vol. i. p. 206.

'The custom of Warwick was, that whenever the king went in person on any expedition by land, ten of the burgesses went for all the rest. Whoever was summoned to give his attendance and did not go, paid a hundred shillings to the king. If the king went against his enemies by sea, the burgesses provided four *batsucins* (boatswains or sailors), or paid four pounds in money.'—*Ibid.* p. 198.

As the Conqueror's survey omits London, Winchester, and one or two other of the principal boroughs, it is supposed by the author of the 'Introduction to Domesday Book' that they had specially compounded with the king afresh for all dues and customary payments; for the sole design of the survey was to inquire into the king's revenue. Owing to these omissions and this design, the notices of municipal institutions which it contains are very imperfect. In Lincoln, Stamford, Cambridge, and the other boroughs on the Danish side, the government was conducted by twelve *laghmen* [law men]. Chester too, another Danish city, was governed by twelve magistrates [*judices civitatis*]. Forfeitures for the breach of the peace, for forestal, for a house taking fire to the common peril, &c., belonged to the king in the several boroughs. Other judicial forfeitures are noticed in some places; the taking of tolls is mentioned in others, sometimes with great particularity*, and every scattered ray of light tends to show that the immunities granted by the earliest Anglo-Norman royal charters, were with scarcely an exception, the rights which were fully established before the Conquest interrupted their enjoyment. Indeed most

* 'Introduction' &c. *passim*.

of the provisions of these charters are either protections from grievances introduced by conquest and feudal institutions, or assurances of common justice, and as they could not be required previous to the Conquest, it is to be presumed that no formal charter of general privileges, of a date anterior to that event, ever existed. If indeed the query recently circulated by the Record Commissioners, for Anglo-Saxon charters of burghs, have any result, it will be in bringing forth some scrap of a few lines containing the contract of the community with the king, concerning their *gafol*, or a grant equally concise of some specific privilege, in return for some special service. At Dover the burghers supplied the king with twenty ships for fifteen days, once in every year, each vessel having twenty-one persons on board, and this because he had granted them *sac* and *soc*. When the king's messenger arrived, they paid three pence in winter and two in summer, for transporting his horse. They also found a pilot and his assistant. Whoever constantly residing in the town, paid his customary rent to the king, was free of toll throughout England. It is expressly added that these customs were found here 'at the king's [William's] coming.'—[*Introduction to Domesday Book*, vol. 1. p. 191] This principle of exemption from toll is precisely that granted at later periods by the Anglo-Norman charters.

The great English boroughs generally, with various royal domains, were seized by William at the Conquest, and are enrolled in Domesday Book as *terra regis*. In subsequent ages they have always been designated as of the king's *ancient demesne*, being under his immediate dominion*, some other possessions were of such early escheat to the crown, that they also were included under the same designation, and when disputes arose concerning the fact of property being such, recourse was always had to Domesday Book and to the records of the Exchequer to find if it had ever been so considered. Melancholy indeed was the state of the English boroughs at this period, the picture of their depopulation and ruin presented by the Domesday survey is deplorable, the sums which the surviving burgesses paid the crown were nevertheless greatly augmented, their houses were pulled down to build castles to coerce them; and servile duties were sometimes exacted. In addition to this accumulation of oppressions, the produce of their industry was entirely at the mercy of their lord, who by the seignorial right or right of force, now for the first time established, made exactions which were scarcely the less arbitrary because called

* . . . in dominio suo . . .

*done*s or gifts, and which in time obtained the name of *tallages*, from the *tallics* used in computing payment. Sometimes too, these demands were called *assizes* or *aids*, and the *burgesses* appear to have been liable to them in precisely the same manner as the king's other inferior tenants, though exempt from personal services, and from the odious feudal bonds upon the marriage of their daughters or widows. Indeed oppression must always have its limit in the endurance of the people subject to it. And the moral and physical strength of a *burgess* population had already been proved in France by the most sanguinary conflicts against the feudal oppressions; a consideration which might influence the Anglo-Norman kings to concede to the inhabitants of their cities and towns the enjoyment of their ancient liberties and customs, instead of pushing them to movements which could not in any case conduce to the profit of the rulers.

The City of London even obtained from the Conqueror a charter of a few lines granting that they should all be *law-worthy*, as in *King Edward's time*, and that every child should be his father's heir; thus vaguely securing to them their liberties and properties; while a second of William's charters granted them a hide of land, and assured them of his protection against French or English*. The ancient popular customs of the principal boroughs were left in operation in the mutual relations of the *burgesses*, and even the guilds for conviviality and mutual charitable assistance, for devotion and almsgiving, or those still more important for trading, were left standing; but the famous London *Unichtengild*, of uncertain antiquity before the Conquest, and apparently having for one of its objects the practice of martial exercises, soon after this event, when its members could expect only a forcible dissolution, transferred its land and privileges to the Canons of the Holy Trinity, which grant was confirmed by William 1st and 2nd, and by Henry 1st and 2nd. The original great mercatory guild of each borough was in the northern boroughs styled its *hans*.

'Volo ut burgenses mei de Beverlac' (Beverley) habeant suam *hanshus* (*hans-house* or *guild-hall*) quam eis do et concedo, ut ibi sua statuta pertractent, ad honorem Dei, et Sancti Johannis, et Canoniceorum, et ad totius villatûs emendationem, eâdem liberatam lege sicut illi de Eboraco habent in suâ *hanshus*.' — Carta Turstini Archiepiscopi Eboracensis, quâ libertates hominibus de Beverlaco conceduntur.—In

* In the early reigns, the men of London, of the other principal cities, and of the Cinque Ports, were styled *barons*; this word denoting in those ages, all enjoying their possessions exempt from any degrading services.

regno Henry 1m — Cart Antiq in Turr. Lond R 18 — Fœdera, vol 1 p 10.

And from this word is derived the designation of the **Hans Towns**, of kindred origin with the Anglo-Saxon boroughs, and which in the enjoyment of their primitive freedom formed a power that monarchs courted in vain.

But the seignorial right established by their Norman masters, was a new and predominating influence in the social existence of the burgess communities. The sums which they were compelled to furnish, must be accounted for to the king by responsible officers. Sometimes the rent or *ferm*, as it was called, and the other issues of the town, were answered to the king by the sheriff of the county in which it was situated. Sometimes the sheriff held a town as *custos* or *fermer* of it, and answered to the king for the ferm and issues apart from the general ferm of the county. Sometimes the king committed his town to a *feimer*, *custos*, or *provost*, distinct from the sheriff of the county. But in process of time, the inhabitants, to be freed from the oppressions of such officers and lessors, would undertake to account to the crown for a higher amount than any such officer could undertake to pay from the proceeds, besides making a great present or fine to the king for this liberty. Such offers, when the sheriff or other officer would bid as high as the burgesses, were refused*, but the advantage of raising their local burdens in the modes most convenient to themselves, and the prospect of escape from personal insult, were sufficient inducements to the inhabitants to make victorious proposals.

This, therefore, is the great æra of the commencement of extant charters of boroughs, which, by giving to the inhabitants their several towns at a clear rent, to be accounted for at the Exchequer by an officer appointed by themselves from among their own number, once more constituted them free and independent communities, so long as they discharged this tribute, and though tallages were still demanded of them, they raised them by a mutual and equitable assessment, free from the harsh conduct of the king's officers. In many cases, as in that of Newcastle upon Tyne, under charters of John and Henry 3rd, the town was given to the inhabitants at fee ferm, with an exemption from the jurisdiction of the sheriff or any other officer of the king, without the introduction of a single word as to internal government, which was left entirely to the ancient customs of the inhabitants. Sometimes special privileges are granted, but they are such only as regarded the burgesses in their

* See the case of Carlisle in Madox's *Firma Burgi*, cap. 11. sect. 3.

external relations ; and most frequently these earliest charters bear, that the burgesses to whom they are directed, shall either have all their ancient customs, or those of one of the principal cities of London, York, Winchester, &c. where the ancient freedoms had been best preserved, and were best known. Whether expressed or understood in general terms, these charters secured to the grantees, among the primary privileges, that their town should be a free borough, *i. e.* the inhabitants should be free from all servile duties ; that the townsmen should have a free trade, and exemption from toll in every part of the king's dominions ; that all the land within their limits should be the property of the community,—such as was not already occupied by their tenements (which were the property of the inhabitants by the ancient burgage tenure), forming common land, off which portions might be sold for building &c., by the assent of the community, to their profit, and to the improvement of the town ; that the townsmen should answer to the king for his ferm by their own mayor, bailiff, or other compeer, at the king's Exchequer ; frequently, that all profits arising from fines, amercements, &c. in the borough courts should belong to the community, for their common benefit, and towards the payment of their ferm ; and that they should chuse a mayor, bailiff, or portreve, to be accepted by the Crown, to account at the Exchequer for the ferm, and to exercise the chief magisterial authority.

The restitution to the boroughs generally, of the full enjoyment of their ancient liberties, was hastened by civil commotions ; for every usurper knew the influence, even at that day, of popular opinion. In the boroughs was centred nearly all that remained of old English nationality, and its support was therefore sought by securing or restoring to them their rights. In the case of London, this position of affairs led to the grant of an actual privilege ; for Henry I., perhaps to procure the popular voice in favour of his usurpation, granted a charter to the citizens, giving them the appointment of the sheriff of Middlesex from among themselves, for an annual ferm of 300*l.*, as also a justiciar to have custody of the pleas of the crown, with a proviso that none other should be justice over them. It also granted that they should not be impleaded without the walls, but only in their own popular court ; that they should be exempt from *danegelt*, from *murder* (for the compensation for murder where the homicide was not produced, according to the law of frank-pledge), and from being compelled to wage battle in any suit, which should on the contrary be determined by oaths. No one by any authority to claim reception (*hospicium*) in the house of any citizen ; and the citizens to be everywhere exempt

from toll, and enjoy all their sokes and customs; none to be amerced but in certain reasonable sums specified; nothing to be pleaded by *miskenning* in the hustings or folkesmoot, or other pleas in the city, to hold their hustings or popular court weekly on Monday; to have satisfaction of all bonds, &c.; to recover unjust tolls taken of citizens by *naams*, or legal reprisal on goods from the guilty place found in the city; to recover all debts due to them by decision in their own courts, and to hunt in the Chiltern and in Middlesex and Surrey as their ancestors did⁴. Such were the liberties confirmed to the Londoners by the son of the Conqueror. That they are almost entirely those which they had enjoyed previous to the Conquest, will not be disputed. The terms of the preamble of Edward III's first charter to London, given by consent of Parliament are clear on this subject.—

'First whereas, in the great charter of the liberties of England, it is contained that the City of London have all their ancient liberties and customs, and the same citizens, at the time of the making the Charter, from the time of Saint Edward the King and Confessor, and William the Conqueror, and of other our progenitors, had divers liberties and customs as well by the Charter of those our progenitors, as without charter by ancient custom, &c. &c.'

Henry II's charter to Lincoln is in these terms:—

'Know ye, that I have granted to my citizens of Lincoln all their liberties, customs, and laws which they had in the time of Edward, and William, and Henry, kings of England, and the mercatary guild of the men of the city and of other merchants in the county, as they more fully and freely had the same in the time of my said ancestors kings of England. And that all men living and trading within the four quarters of the city may enjoy the guilds, customs, and assizes of the city, as was more fully used in the time of Edward, William, and Henry, kings of England, &c., &c.'—*Cart. Antiq. in Turri. Lond.*—*Fœdera* p 40.

In like manner Henry II's Charter to Wallingford confirms the liberties of the burgesses, as being those which they had enjoyed in the time of Edward the Confessor,—'their mercatary guild, with all their laws and customs,' with which no provost or other justice of the king's was to interfere, but only their own 'aldermannus et minister,' &c., &c. This Charter includes quitance from toll 'by water and by stronde, by wode and by longe,' which words are inserted as being the old customary expression, though the document is in Latin.—*Inspex. Hen. III, A. R. 51, A. D. 1267. Bib. Cotton. Claudius, D. II. 130 b.*—Edward I's. charter of the liberties of the Cinque Ports in

* Per *Inspex. Pat. 2. Edw. IV.*—*Fœdera*. vol. i. p. 11.

like manner refers them to the age of the Confessor. *Rot. Cart.* 6, *Ed. I. n. 13. in cedula in Turr. Lond.*—*Fœdera.* vol. i. p. 558.

The terms 'I have given' or 'granted,' used in the earliest as well as the later charters to boroughs, do not necessarily imply that all therein contained is new to the burgesses; for the same terms are used by sovereigns in granting privileges which are embodied in previous extant charters, and the same style was used by the French kings in confirming to *communes* the constitutions which they had established by force. And it was their being such as the country generally had been deprived of, that now rendered necessary their special certification as privileges, although the right to their enjoyment was far more ancient and more honourable than the power which now permitted its exercise. With the exception of such as are purely local, the liberties specified in the above charter of Henry I. to the Londoners, either by exemplification or by reference to the previous customs of the same or another place, form the basis of every early endowment of privileges granted to the English boroughs.

Had all these early liberties been, as much ingenuity has been wasted in endeavouring to prove them, the fruit of the overflowing grace and paternal wisdom of the Norman kings, they would have presented only a copy of the institutions imitated from the Roman Gallic cities of the South of France, of which many cities and towns in the North had lately acquired the enjoyment, by insurrection against the yoke of feudal mastery, or by purchase. But while every characteristic of the northern institutions, and the Saxon names used in the Latin charters to designate them, betray their native growth, the southern ones evince everywhere the Roman principles of their organization, though the exemptions from feudal oppression enjoyed by the free citizens in both countries were of course nearly the same. Stephen, who succeeded the first Henry, likewise secured the adherence of the Londoners to his cause; but as it was by no means so triumphant as that of Henry, they suffered severely from the animosity of the empress Matilda. Her son Henry II. however, confirmed the above-recited privileges, and it was in his reign that the special confirmation of them to towns given at ferm to the inhabitants, became frequent. Richard I. pursued in this respect the policy of his father; but it was in the reign of the weak yet violent John, that the boroughs rose most rapidly into consideration, and acquired the most numerous charters of liberties, the provisions of which were universally the same, conveying the above-mentioned rights. Of the

purchase of every liberty, however, the great Roll of the Pipe bears abundant evidence. Thus Gloucester is fined in cc marks for a grant of liberties similar to those enjoyed by the citizens of Winchester; 1st of John, Rot. 3. a. m. 2. The Burgesses of Bedford paid 40 marks for the king's charter; 12th Hen. II. Rot. 1. b. The Burgesses of Appleby paid the same sum for a charter of the same liberties and customs as the citizens of York enjoyed; 25th Hen. II. Rot. 3. b. &c. &c.

In imitation of the measures adopted by the Crown, the great lords of seignories also, with a view to reap similar advantages, frequently gave charters to the townsmen in their lordships, yielding to them their respective towns in fee ferm, with all the personal liberties of the burgesses of the royal demesne boroughs, and exemptions from toll, and from trial in any court but their own within the grantor's power and lordship; a limitation which made their advantages in commerce fall far short of those of the royal burghs. Sometimes too, these lords, instead of giving the town and its suburbs at one general rent, provided for profiting by its increase by reserving a small rent for every burgage tenement that was or should be erected; still retaining the power to levy tallage.

The English burgesses now, therefore, began to form a third estate under the feudal monarch, and amid the feudal aristocracy planted by the conquest, who despised them as being English. Though they preserved in fond remembrance the days of 'good king Edward,' their nation's head and not its master, yet now emancipated from the personal insults and injuries of conquest, they took their new station with firmness, and their feelings of nationality and social pride were rallied round the several little communities to which they belonged. The spirit which had animated their forefathers at Hastings, was now directed to the jealous defence of their rights against encroachments; that which had founded monasteries in the Anglo-Saxon kingdom, now endowed chantries in the several cities and boroughs; their guilds and mercantile *hanses* they enjoyed in security; and the ambition for a name would find gratification in the endowment of a house of charity, or the completion of some work of permanent public utility. It was this definite possession of their ancient civil liberty by the boroughs, that, while it insured the feudal lords of the English soil from the effects of any lingering national hope, cherished social feelings and bonds that were yet destined to triumph by imperceptible advances over those which had been erected so proudly on their abasement.

The æra of this settlement is marked by the clause of the

Magna Charta of Henry III. providing that, 'The City of London shall have all its ancient liberties and free customs: moreover we will and grant that all other cities and boroughs, and towns, and the barons of the Cinque Ports and other ports, may have all their liberties and free customs.' It cannot be supposed, that there was henceforward any unceasing heart-burning among the men of the English royal boroughs against their sole superior the king; but only like other free subjects, when they were specially aggrieved; for he was necessarily their steadfast and unfailing defender against any injury from other than his own authority, and their favourer in every cause as his tenants in mass, on whose security from aggression depended the revenue he derived from them. That rapacious and dissolute monarchs, like Henry III himself, resorted to the meanest oppressions to procure aids and gifts, is equally indisputable*; and the feelings consequent on such proceedings, it requires no stretch of imagination to conceive. But these peculiar injuries became for the most part obsolete, when the several interests of the state began to meet in parliaments; and the bitterness of jealousy between the third estate and the monarchical power, had not its origin until centuries subsequent, when the Commons were found to be the sole obstacle to an unlimited despotism of prerogative. It is necessary to observe, that in the course of ages, the distinction between the royal boroughs and those under the several lords, was in most instances gradually lost; for when the latter came to be required to pay taxes to the king, they obtained royal charters of liberties in return and came like the rest under the immediate protection of the king.

The constitution of all the ancient English boroughs was originally purely democratic; and never was a corporation, either in deed or name, erected by royal charter until times comparatively recent. The town and all liberties were secured by the royal charter to the townsmen at large, who, for many centuries, were the sole body acknowledged by the crown, or having any existence. Nor was it assumed by the king to dictate on the internal polity of the boroughs (which was left to their

* In the 31st of Henry III. for instance, for not paying their debts of tallage or other debts; and 'because they disregarded the king's mandate,' the Sheriffs of London and Middlesex were delivered in custody to the Marshal, and the Mayor, Sheriffs, and Aldermen were forbidden by themselves or deputies to proceed in any matter until the King had further ordered. *Hil. Communia*, 31 *Hen. III. rot. 5.*—This seizure, however, was remitted in the next term to the barons of London. *Pas. Communia*, 31 *Hen. III. rot. 5, 6.*

ancient usages), beyond specifying, in the first instance, the title of the officer or officers to be elected by the whole community to account to him for the ferm, and be their chief magistrate or justice. Subsequent charters gave power to elect other officers, rendered necessary by the gradual improvement of the judicial institutions, the increase of population, and the extension of their interests; but it was still always to the burgesses at large, on their petition, and in accordance with the existing popular government. Thus the form of all charters or grants of possessions or privileges, was, in the early Norman reigns, down to that of John, 'to the citizens, burgesses, or men' of such a city or town, 'to hold to them and their heirs, from the king and his heirs*.' The word *imperpetuum* was sometimes added, and it was invariably joined with the preceding address in the charters of Henry III. and Edward I. In or about Edward III's reign, and for some time after, such grants were made in like manner to the townsmen 'and their heirs and successors for ever,' and in later times are mentioned their 'successors' only. It was not until about the reign of Henry VI. and Edward IV, that the royal charters began to contain provisions, that the towns should form 'a corporate community in deed and name†,' though the entire power of these cabalistic words, and of those erecting a '*corpus incorporatum et politicum*' subsequently used, had long of necessity been understood, when a body of men were tenants of the Crown, and in the enjoyment of a separate political existence. The general erection of corporations distinct from the whole community of the borough, was left for the perfecting hand of the Stuarts.

The sum of the description of a burgess, townsman, or member of the community of the borough, says Madox, was this:— 'They were deemed townsmen who had a settled dwelling in the town, who merchandised there, who were of the hans or guild, who were in lot and scot with the townsmen; and who used and enjoyed the liberties and free customs of the town‡.' In fewer words, the burgesses were those who resided in the

* This style was consequent on the feudal institutions, and declined with their decline. Henry III's great charter of liberties, the real Magna Charta, ran 'to the nation and their heirs.'

† This style appears to have arisen on the decline of the household franchise, when the municipal institutions began to rest on societies of persons in the trades guilds, in lieu of having the original base of inhabitancy.—*Madox's Collections. Lansd MSS vol lii, p 80*

‡ Brady's absurd argument to show that the community was a close and limited body, had it merited a refutation, would have received it by this work —*Firma Burgi*, p. 269.

town and enjoyed its common franchises; and they did enjoy these, as being the resident and trading inhabitants. Originally, therefore, the household franchise was universal, and the individual qualification was the being at scot and lot with the rest of the community; for the early charters specially grant the liberties therein contained to the citizens, burgesses, or men dwelling within the limits of the city or borough, which commonly included a surrounding vacant space; and to be at scot and lot with them, was to be so resident, and sharing in the common burthens of the community. Strangers residing temporarily in the town for the purposes of trade were not allowed voices in the affairs of the borough, and consequently in the grant of aids and tallages, at the same time they were free from its burthens, which could not be imposed at common law without admission to these rights,—so ancient is the principle of co-extensive taxation and representation*.

So entirely unknown in early ages was any select body forming a corporation, in the popular sense of this term, that it is difficult to distinguish in many particulars between boroughs of ancient demesne, and inferior places held of the crown by the inhabitants for a specific term; for they paid their aids, tallages, fines, &c., to the king in one and the same manner, and when the men of a town became answerable to the crown for a term or other debt due from their community, it was indifferent to the king whether they had municipal combinations or not. The barons of the exchequer, the king's attorney, or his other clerks and officers, charged, impleaded, and sued the townsmen of the one or the other in the same manner, in any name by which they could be accurately designated, and they answered by one or more of their number, deputed for this purpose by the rest. There was also anciently a method of summoning a community to appear in the king's courts of law by six or some other number of the better and more discreet inhabitants to be nominated by the rest†. The duties of the boroughs to the king were rendered entirely by their chief officers, elected annually by the whole community. The original custom of the boroughs, under the early Norman kings, was to elect two portreves or bailiffs; but by different charters it was commonly granted to them to elect a single chief magistrate, bearing the Norman title of mayor, who became answerable to the crown for all things in which the bailiffs were previously respon-

* A bondman's residence for a year and a day in a borough without any claim by his lord, made him free, a provision which is embodied in many charters, and was the common law with regard to all boroughs

† *Firma Burgi, passim*

sible, and the latter declined to an inferior rank. The mayor it was always necessary to present to the king, or some one appointed by him, to be accepted and sworn faithfully to discharge his duties, both to the crown and the community; and to receive these presentations, accept the officer elected, and take his oath, became part of the duties of the treasurer and barons of the Exchequer. To these, when the citizens or burgesses had made their election, it was notified by letters under their common seal, and the mayor elect was presented to them at the Exchequer by two of his fellow-burgesses. The same custom was observed in regard to sheriffs, which some of the cities acquired power to elect as counties of themselves, and for the same reason,—because of the duties which they had to render to the king. In course of time communities acquired by charter the privilege of taking the oaths of their own officers, or they might be tendered to the constable of the nearest royal castle. If such officers performed any official duty without taking the oath, it was deemed a contempt, and the liberties were liable to be seized into the king's hands, unless redeemed by fine or a valid excuse.

The above sketch shows the entire external relations of the ancient boroughs, the integrity of their internal civil government, and that the municipal body was originally composed of the inhabitant householders. How extraordinary seems the transition from this position of affairs to the present, with all the various claims to borough freedom which the House of Commons was for centuries involving in still greater confusion by the decisions of election committees. The task of elucidation is rendered the more difficult by the internal government being unprescribed by all early charters, and left entirely to the ancient customs and usages of the burgesses, or to such as they might resolve to adopt in accordance with the common law of the realm. The history of the first part of this change, therefore, is to be found only in the proceedings recorded in the corporation books and those of the several guilds; and that of its completion, in the Stuart charters. The commissions at present in operation, it is to be hoped, will bring forward matter of the first importance from the former, which are the only hidden sources of information, and have in well-known instances been wilfully destroyed by dishonest interest; but sufficient is already accessible, to trace the progression towards the present prevailing reversal of all rational municipal government, by which a town community is made, as it were, to stand upon its head.

There are certain claims to freedom in boroughs, by birth, marriage, servitude, purchase, and free gift, which are known to

be of very early antiquity, and which a moment's consideration will show to have arisen necessarily from the original constitution which has been traced, or rather to have formed part of that constitution. Premising that residence and the scot and lot qualification were necessary to substantiate any claim to the freedom, it is evident that, to the liberties granted to the townsmen and their heirs or successors, their sons and apprentices had an inherent right; and as their daughters or widows would not marry bondsmen, if the community at large chose to admit their husbands by the claim of marriage only, custom would establish this right also. With regard to the right by purchase, it is obviously equitable that the burgesses, who had purchased the enjoyment of their liberties dearly, should not admit strangers to share in them and in their public property, without paying a fine to the funds of the community for this freedom; and in such case, as in the preceding, residence and contribution to the discharge of the common burthens was necessary to substantiate the claim, or enjoy the right. If the community chose to admit a stranger without the payment of any fine, this was the right by gift; but all these claims, it is obvious, were anciently mere openings to the universal household and scot and lot franchise; for none but a freeman could claim to reside and trade in the town beyond a limited number of days, at least until the enactment of the staple laws in the reign of Edward III. Nor can the prevention of the permanent residence of non-freemen be regarded as tyrannical on the part of the community, for they would have been free at common law, from all taxes and public burthens, and instead of being on an equality with the previous inhabitants, would thus have an important advantage over them. The unamalgamated state of society, in which the burghs enjoyed peculiar liberties and supported peculiar public burthens, necessarily raised into existence this principle, the present perpetuation of which in many ancient towns is equally mischievous and unjust, since all are now supposed to be equally free and equally taxed to the state, whether residing within or without certain limits. Edward III's laws of the staple, sanctioned the residence of non-freemen in the staple towns, but on the other hand he allowed the communities to compel them to contribute to the public burthens; and under these regulations does the residence of non-freemen appear first to have become frequent*. The peculiar position of the Jews and of the merchants of the Hans Towns does not affect the general

* Charter of the 37th of Edw. III. to the citizens of Dublin (1363). Rot. Mem. 2. Ric. III. m. '1, 12 in Turr. Berm. Dublin Castle.

question. The ancient guilds or companies of the several trades were openings for admission to the municipal franchise; for in London, it may be instanced, a certain number of the brethren of the mystery* to which the candidate belonged, would become sureties for his proper behaviour. These guilds are of very great antiquity, and in their greatest prosperity became important bodies, in which the whole community was enrolled, and they severally had their common halls, made bye-laws for the regulation of their trades, and had common properties; while the rights of the individuals composing them, as members of the great general community, remained the same.

Anciently the only court, council, or assembly in every city or borough was the folk-mote, or meeting of the whole community, called in London, when held within doors, the hustings or common-hall, and in other places frequently the hundred. These were held for mutual advice and general determination on the affairs of the community, whether in the election of ~~When the whole~~ a man of justice, the making of bye-laws, the grant, sale, or lease of public property, the voting of taxes, or any other matter affecting their interests. In this assembly, in fact, commonly held every week, appeared the community or commonalty, to whom, together with the officers whom they annually elected, every general power and privilege conveyed by the royal charters was granted. However vested in later times, every power exercised in the ancient boroughs derives its origin from the acts of this assembly; and the following notices of them in London† will show their general course.

So early as the close of Henry III's reign, did the aldermen and those calling themselves the more discreet of the city, make an attempt to elect a mayor in opposition to the popular voice; but it ended in the triumph of the latter in a general folk-mote at St. Paul's Cross. In the reigns of the Edwards, it would appear from Liber c. in the town-clerk's office, as quoted by Brady, that the election of mayor of London was made by the mayor, aldermen, and a varying number of men out of each ward, whose appointment must have been by election of the ward, so that the general voice was the same. [*Liber de* .

* This word had not originally the 'mysterious' signification since attached to it; being derived from the French *mestier*, a trade,—which is apparently from *mestre* and *maître*.

† Derived chiefly from a learned and elaborate essay, composed principally of extracts from corporate records, and entitled 'The Rights and Authority of the Commons of the City of London in their Common Hall assembled,' &c. &c. London, folio, 1695

Antiquis Legibus in Archiv. Civ. fo. 132, Anno 1272.]

The aldermen were in their original constitution only a council to the mayor in the administration of justice and in his other duties, elected annually by the freemen of the several wards; and from them the mayor might resort for advice to the commonalty in their general assembly, before which that of the aldermen gave way. At a very early period, however, the great number of the citizens, and the variety of business to be transacted, made it necessary for them to have a standing committee of their body to be consulted by the mayor and aldermen, and to have the same veto as the Common Hall possessed in the framing of bye-laws, and in the general administration of the affairs of the community. Any grievous malversation was prevented, by the whole of this administrative body, called the Common-Council, being elected annually by the commons at large, who thus framed for themselves a representative government. That such a council existed so early as the year 1284, appears by the Liber Albus in the town-clerk's office*; but the present day deemed in law a prescriptive body, yet this arise from its not deriving its existence from royal charter, rather than from the certainty of its existence before the time of legal memory. Its number and constitution, too, were often varied. Nearly thirty years after the power of making bye-laws had been expressly granted to the citizens by charter†, it was by the consent of all the commons ordained, that each of the mysteries should chuse certain persons to assent to and ordain, with the lord mayor and aldermen, whatever they should deem advisable; to elect the mayor and sheriffs; and to give council in all cases where it was formerly sought of the commons. This was in the 43rd or 44th of Edward III, and was confirmed in the 50th of the same reign; but the Common Hall or court of hustings of the whole commonalty, still retained the right of remodelling the municipal government, of which it seems difficult to imagine how they could ever become deprived; and in the 7th of Richard II. the Common Council was placed on its present footing, by an act of Common Hall, passed in the presence of the 'immense community,' to the effect that, as in such great assemblies things had been done more by clamour than by reason, the aldermen, when, on the day of St. Gregory in every year, they are established for the year ensuing, be firmly charged, fifteen days after the said day, to assemble their respec-

* Maitland, p. 105.

† In the 15th of Edw. III. But this power must have been inherent in them from the first, or there could previously have been no municipal organization.

tive wards, and by good deliberation, charge them to chuse four of the most sufficient persons that are in their ward, to be of the common-council for the year ensuing, &c., provided that of the whole number, no more than eight should be of one mystery. In some points, as to the numbers sent, this Act was not adhered to; but as the whole administrative powers of the community were thus transferred to their representatives the mayor, aldermen, and common-council, annually elected,—it is not surprising that the ancient hustings court, though still continuing to exist, should have fallen into comparative abeyance. Yet on a subsequent occasion, in the 23rd of Henry VII, the mayor, aldermen, common-council, and commons are found acting as one great Common Hall, in accordance with the original constitution.

Such was the natural origin of the courts of aldermen and common-council in London; and their analogous rise in other communities is abundantly evidenced by existing documents. When the whole of the citizens or burgesses were numbered in the several guilds, these, for convenience sake, sometimes formed the basis of the internal polity of the community, and the election of borough officers or of members of the common-council became vested in them. London at the present day presents a remarkable instance of incomplete progression from the household franchise to the adoption of that of the guilds; the inhabitant freemen chusing the members of the common-council and the aldermen; while the livery of the several companies, whether resident or non-resident, elect the mayor, sheiiff, chamberlain, and other officers. In many boroughs, this basis of the guilds entirely superseded the original scot and lot franchise; and in the changes of society which by imperceptible degrees have reduced the guilds from their original position, the way was thus opened for abuses. Moreover the aristocratic tendency even of the most popular societies in an age of imperfect political instruction, was at the same time working counter to the popular liberties. The richest and most influential persons being chosen to the highest place in the municipal councils by the inhabitants at large, were naturally inclined to perpetuate their authority without seeking the sanction of the popular voice, and even to usurp powers never delegated by it at all. These usurpations were vigorously resisted by the body of the community; and the contests were sometimes so violent and obstinate as to lead to bloodshed. The history of the early French *communes* presents in different instances precisely the same circumstances, by which the usurping party sometimes

brought complete destruction on the community*. But the endeavour of internal parties thus to form close ruling bodies, irresponsible to the community at large, had little success until encouraged by a higher authority from without; and for four hundred years from the time of the Conquest, cases of such influence in England are almost unknown. The strength of the royal burghs was that of the king against the aristocracy, until the accession of the Tudors; and therefore, to have unnerved it, would have been suicidal on the part of the crown. But when the aristocracy was so weakened as to become merely the powerful machine of despotism, the crown found the first check to its arbitrary sway in the Commons, and gradually became opposed to the old free spirit which had so long been its support against a third power. Two principles then came into collision in English society,—undivided despotism and unsubdued freedom; and it required a long experience to instruct the parties whom these principles animated, in their respective strength and bearing. But the despotic power, which with individuality of person and purpose united an all-cognizant position and all-pervading authority, quickly entered into covert hostilities against the popular rights of the borough freemen, whose position was too strong for the contemplation of an open attack.

The only policy open to the crown to secure its objects, was the encouragement of burgher aristocracies, irresponsible for the exercise of authority to the freemen at large, and courting the favour of the government, for reasons sufficiently obvious, in proportion as they were made independent of that of their fellow townsmen. This policy, however, was very slowly developed, though the first traces of it appear in several of the charters of Henry VII; as in one to Bristol, in 1499, establishing a self-elective council of aldermen; who yet, though justices, had no exclusive power of government. Henry VIII mostly confirmed whatever customary institutions were existing, as also did the charters of Edward VI. The charters of Mary and Elizabeth which establish new municipalities, erected self-elective corporations for their government, which had for one of their chief objects the exclusive exercise of the parliamentary franchise. But the history of the corrupt institutions so numerous erected in these and the Stuart reigns, which procured to the places concerned the designation of 'crown boroughs,' and which origin they have never belied, belong not to ancient municipal history. With the exception of the weaker places, the ancient boroughs, which were also the only towns of real importance, retained their free

* See *Lettres sur l'Histoire de France*, par M. Augustin Thierry.

constitutions yet a little longer unimpaired by other evils than those of internal growth. These the freemen were themselves beginning to abolish; and in the reign of Elizabeth they claimed to exercise personally powers then vested in some of the common-councils. In Michaelmas Term 40th and 41st of Elizabeth, it was demanded of the two Chief Justices Popham and Anderson, Chief Baron Periam, and the other justices, whether the elections of officers made by the common-councils, consisting of select bodies of the burgesses of a city or borough, were legal, in opposition to the words of their charter vesting the elections indefinitely in the commonalty; which question it was of great importance to know, because, contrary to the ancient usage which had thus grown up, attempts were making to have popular elections. On which it was decided, that such ancient customs were good, because the several boroughs had power to make bye-laws; and where bye-laws making these regulations could not be found, it might be presumed that they had existed, because such custom must have originated in *common consent*. Therefore elections of corporate officers by select common-councils were legal*. But whatever objections might by the Queen's judges be found in law to the institutions of boroughs being remodelled by the authority which framed them,—the common assembly of the burgesses,—there was assuredly none in abstract right or reason; and instances of such remodellings have been already noticed.

But all hope of a return to the original principles of borough freedom was destroyed by the patronage extended by the Stuarts to every corruption that would favour the despotism of the prerogative. A fine field for undermining the spirit of the Commons was presented by the state of the boroughs, which, by oppressive acts under a mask of law, were induced to submit their liberties to the king, with petitions to have them confirmed. In the new charters which were granted by James I, power was assumed of dictating every detail of the internal polity of the boroughs, and of nominating the persons who were first to exercise the several offices under the new charter and to form the common-councils, with authority to assess local taxes, although not the representatives of the commonalty. Wherever the public voice was not sufficient to counteract this fraudulent policy of the crown, it was invariably exercised to destroy popular rights, to encourage political corruption, to form the limited exclusive bodies to which the

* Coke's Reports, Vol. IV. fol. 97. Michaelmas Term, 40, and 41, Regiⁿ_æ Eliz.

name of 'corporation is at present applied, and to undermine by every means the remainder of the healthy energies of the boroughs. Wherever it could be attained, the corporations were made self-elected, or *close* as it is expressively termed, as portion of the progressive design to enslave the whole nation to a government equally *close* and unsanctioned by its voice; though where powerful communities still enjoyed the rights of their ancestors, they frequently resisted these influences to a considerable extent. Every chance of reformation, however, was utterly destroyed; every existing abuse was made permanent; and new ones were nurtured behind an impenetrable barrier of royal sanction. Such measures were among the greatest of the political crimes of the Stuarts; and to them may be attributed the existence of the mass of corporate corruptions that remain to be abolished. They were pursued with undeviating perseverance during the continuance of this dynasty; and it was a sweeping attempt to subvert the remaining liberties of the boroughs, begun by the *Quo Warrantos* of the 35th Charles II, that greatly contributed to the happy expulsion of the Stuart family. It was in this æra that naturally arose the bitterness of jealousy between the crown and the great bodies of townsmen, excluded from the political and municipal rights of freemen; more especially where the latter remained unbesotted by the doctrines of divine right, which, under the name of religion and loyalty, were unceasingly instilled into their minds by the members of the 'church and state' monopolies. Since the Revolution, the crown has very seldom interfered with municipal institutions by the granting of charters; but in the few cases which have occurred, it has betrayed a trembling anxiety to preserve the corrupt bonds imposed by the Stuarts, by which most of the corporate towns in the kingdom are now fettered.

The corporation of Bristol may be taken as representing the perfection of the Stuart or Tory policy (though in one of the largest cities of the Empire), and the standard of political slavery to which the remaining free institutions of the boroughs were being rapidly reduced, so long as the nation would submit to the imposition. For several centuries the management of their own affairs, and their internal government, were conducted by the men of Bristol according to their prescriptive customs, and to such rules as the whole community chose to adopt. In 1499, perhaps in sanction of ancient custom, or at least on the petition of the inhabitants, Henry VII by his charter, permitted that they should have a common-council of forty, elected by the

inhabitants*, and five aldermen besides their recorder, originally appointed by the mayor and common-council. Elizabeth, in 1581, increased the number of the latter to twelve, who were self-elective; but the general liberties of the citizens, who were too numerous and powerful to permit them quietly to be infringed, were repeatedly confirmed by the Stuarts. The common-council, however, surrendered their charter before the *Quo Warranto* brought against it in 1682-3; and in the following year Charles II issued a new charter, constituting by name the mayor, aldermen, common-council, and all officers who should form the new corporation, and providing that the common-council, though possessing all its ancient power of internal legislation and taxation derived from the burgesses at large, should no longer represent the community, but be a close and permanent body, to fill up vacancies in its own numbers as they occurred by death or otherwise, and to appoint the mayor and every other officer. But even this annihilation of the civic rights of the inhabitants was deemed insufficient. To secure the servility of all the members of the corporation, it was provided that the Lord Chancellor should have a *veto* on their bye-laws, and that the king should have the unlimited power of expelling any of its members, by order in council, without any further proceeding. This charter was of course accepted by the close corporation therein nominated; and the same measures were in hand even with London itself, when the Revolution destroyed the power, which had already but too successively pursued them. James II, some few weeks before his abdication, endeavoured to support himself by rendering justice to his insulted and injured subjects, and by proclamation restored the ancient government of Bristol, and replaced it on its former charters, the resignation of which was cancelled by the Attorney-General and given to the mayor. Other boroughs in similar circumstances discarded the new charters, and reverted to the old ones; but this was not the case with the corporation of Bristol; who held fast by Charles's charter. It is gravely questionable, however, how far the charter of Charles is to be considered valid, and by the burgesses at large it was regarded as void. But so soon as the Tories, the corrupt supporters of this and every other political fraud of the Stuarts, had reluctantly relinquished James on account of his papistry alone, and returned to power under Anne, a fresh charter was granted in the 10th of her reign, to the close corpo-

* The terms of the charter are, that the mayor and two aldermen, *de assensu communitatis villæ*, 'by the assent of the commonalty of the town,' shall elect them. These words merely empower the mayor and aldermen to act as returning officers.—Seyer's Charters, p. 152.

ration, confirming the provisions of the charter of Charles II. as legal, with exception only of the power assumed by the crown to dismiss its members at will, and holding forth pretended pardons to those who had refused submission to it. Of the value of municipal institutions so worthy of their authors, there have recently been flaming proofs.

It has devolved on the present generation to clear away these vicious bodies, enjoying the rights and armed with the powers usurped from the community, and commonly almost as much at variance with the respective bodies of burgesses still enjoying the name, as with the inhabitants at large with whom they have no connexion but that between the irresponsible ruler and the subject of his power. It is not here designed to discuss the detail of prospective municipal institutions, but to define only their necessary basis.

‘ That the burgesses were originally the inhabitant house-holders of the borough contributing to the charges and taxes of the community, is a point which is now too clearly established to be disputed, but at the same time they differed in some important respects from what may be termed the fluctuating inhabitancy of modern towns. The burgess held his burgage by a certain tenure, he was admitted to his tenement by a formal act, he was put in possession by the bailiff of the town. And I can find no proof that a “foreigner” was entitled as a matter of course to establish himself as a burgess tenant or to settle within the liberty, without the assent either of the lord or of the community. To cast the municipal franchise upon the inhabitant house-holders at large, without restriction or qualification, and without endeavouring to discipline them into good citizenship, would be wholly inexpedient.’
—*Observations &c.* p. 58.

On analysing these generalities, more definite conclusions may be arrived at. No one originally was taxed, who was not in the enjoyment of the freedom of the borough, and therefore taxation and representation were co-extensive, which is not the case at the present day; and if the burgesses including only a portion, sometimes very limited, of the whole body of inhabitants, should now claim to have the election of magistrates and governing bodies thrown open to them alone, the inhabitants not freemen would have an equally good claim to be exempt from taxes for the support of such government, or any other public purposes. These claims being balanced, neither of them would be asserted; and it is obvious that every right to municipal freedom is possessed now, as in early ages, by the inhabitant house-holders paying scot and bearing lot, or sharing in all the burthens of the community. All Englishmen are, or ought to be, equally free, and no one can claim a right to

domineer over another, by placing magistrates over him and assessing him to local taxes without his consent. In everything which affects the inhabitants at large, such inhabitants have a right to a voice, and as in the generality of cases there is no corporate property but what is applicable to public purposes, and in the advantages derived from which, if properly administered, the inhabitants at large would share in as great a proportion as the existing bodies of freemen, the latter can produce no valid objection to the unlimited extension of municipal rights. Where burgesses can claim legal private interests in property, the individuals possessing such rights, while they share with the other inhabitants in the freedom of the community at large, may form a distinct society for the management of such affairs alone. It was never contemplated by the ordinances of Edward III, that the residence of non-freemen for the purposes of commerce would become what the residence of non-freemen has long been, or some provisions such as those above suggested, would have then been made. As for the insult to the English people conveyed in the intimation of their being unqualified for the enjoyment of the municipal freedom of their forefathers, and requiring to be 'disciplined into good citizenship,' its gratuitousness is proved by their being at this time the best of citizens under the existing systems of corruption and misrule, or under no system at all.

The household franchise, therefore, with the scot and lot qualification, ought to form the basis of every new municipal organization, as well in the ancient boroughs, as in the large towns where such institutions are of primary necessity. Neither should this franchise be limited to the tenant who, in the large towns, nominally holds one building much larger than his own wants require, while more substantial members of the community are frequently his sub-tenants. Formerly 'master and man were members of one mystery, fellows of one guild,' [*Observations*, p. 4]. These ties are dissolved, but the operative of good character at this day, while at least equal in moral worth, is as superior in mental power as in animal comforts, to the journeyman of old. The observation is perfectly just that 'the most accurate test of character by which we can try the respectability of the middling and lower orders will be found, not so much in the value of the tenement, as in the period during which the individual has continued in the same neighbourhood or town.'—[*Observations*, p. 6.] But the distinction proposed to be made between operatives and non-operatives, in the time of residence which should give them municipal rights, with an inquisition to decide who shall be esteemed of these several

classes, would be unbearably odious if practicable, and is as impracticable as odious. All operatives of value to themselves and to society, have an undeniable claim to share in municipal freedom; and all such and none others would be included by the household franchise being enjoyed by all sub-tenants assessed to the public burthens of the community, which they should have the power of demanding to be. Pauperism or crime will scarcely ever appear within these limits; and when they do, they may be disqualifications. The residences of sub-tenants, it must be observed, are infinitely superior to the ordinary houses in the early ages of the scot and lot franchise, when the punishment for some transgressions was that the offender's house should be taken out of the town and burned, and this even in London.

Such is the only basis in prescriptive right, in reason, and in justice, for municipal institutions. The bonds of peace, union, and consequent strength, which would thus be restored to society, are those which are dictated by nature, and which alone it is practicable to form; and it is sufficiently well known that wealth and intelligence are not likely in such circumstances to want at least their due influence, so that municipal institutions would once more possess every attribute of dignity, instead of incurring at once both hatred and scorn. A partial restoration of rights to the communities of towns, would be more dangerous even than the present monopoly of them, for it would create new bickerings, with fresh strength to maintain them; and a distinction of the inhabitants into classes, if practicable, would secure the destruction of all peace and order, by raising quarrels of the most dangerous description. The enemies of social union and happiness, will yet endeavour to create and foment such discord; and it will require the united efforts of of their friends, to secure the exclusion of adverse elements.

Sir Francis Palgrave asserts, that a distinction must be made between the municipal and the parliamentary franchise; a doctrine not to have been expected from one professing so much reverence for the precepts of antiquity, as they were ever identical from the first, and with few exceptions remained so until the late changes in the parliamentary franchise. The admission of the 10*l*. householders to the latter, may therefore be regarded as an admission of their right to the rest. Because such admission to the elective franchise has not been extended to the length of justice and constitutional precedent, is no reason why municipal rights should be similarly restricted. When the boroughs granted taxes to the king separately, such grants were made in the common assembly of the burgesses, and they

obtained to the best of their power immunities and privileges in return; this was legislation in its rudest process under a feudal sovereign. The next step was the grant of such taxes by an assembly of deputies from all the boroughs, and the procuring of common liberties in return; which custom was permanently settled in the reign of Edward I. and this was the origin of national legislation; for if anything was granted to the requests of the Commons, their petition and the King's answer constituted the enactment, and the Lords had long no *veto* in the matter, nor any other influence in such cases than as advisers of the King. The further amalgamation in Parliament of the powers and interests of the State, produced the present Legislative Constitution. The communities, which had at first voted taxes separately, sent as representatives by common consent one or two of their number. So entirely was this a portion of the municipal rights, that no one in early ages, who was excluded from their enjoyment, was called upon to pay the taxes thus granted to the Crown; so that the taxation and representation in both cases, were identical in their principle, and co-extensive in their limits.

In opposition to the safe and efficacious mode of modelling and reforming municipal institutions, by the Legislature giving an outline to each community according to its circumstances, for itself to fill up according to its necessities, may be placed that recommended by Sir Francis Palgrave.—

‘It will be desirable, that all corporate bodies and local police jurisdictions should in future be created by royal charter. Whatever powers are found requisite for this object should be conferred upon the Crown by the Legislature, so as to prevent the necessity of applying to parliament for private or local acts. . . . A portion of the powers now exercised by the Houses of Lords and Commons or their Committees, upon Local Bills, in a manner pregnant with abuse and injustice, should be transferred to the Privy Council, and to the Privy Council also should be restored a portion of that jurisdiction over corporations and corporate officers possessed by the ancient council; and which has been gradually diverted into the ordinary tribunals. . . . Some such tribunal is needed for the purpose of exercising powers and authorities which ought only to be entrusted to very high and responsible functionaries. And as the Council does actually exercise a *quasi* judicial power, by hearing the arguments of the parties concerned, if cause be shown against an application for a new charter, the proposed enactments would be only an extension and confirmation of the power which it already enjoys, though after an irregular course. At present, the entry of a caveat or appearance, in opposition to an intended grant of a charter, cannot be demanded as a right, and might be withheld.’—*Observations*, pp. 52—4.

These passages contain under a specious form the most dangerous doctrines. It would be as reasonable to say, that to give to one man the *possessions* of another, would only be 'confirming and extending the *property* which he already enjoys;' and the 'responsibility' of the council is a gross fallacy, as it is responsible only to the King, who is responsible to nobody. It is, in fact, an irresponsible despotic tribunal, which the nation has been compelled by its abuses to reduce to its present nullity; and these are not the days for the revival of a Star-Chamber. Moreover, the power proposed to be given to the Council is such as it never enjoyed in England; for to give validity to a charter, the petition for and the acceptance of it were always necessary on the part of the community already existing in law; and the present charters would often not be surrendered, nor reforming charters accepted, even if the Crown enjoyed the highest stretch of Stuart prerogative, instead of being entirely without the power to grant such charters at all*. Corporate Reform, therefore, is a matter of national legislation; and parliament by vesting the proposed power in the council, would give to that irresponsible committee the legislative omnipotence of the whole realm, the disposal of every man's property and of the municipal rights of every town inhabitant. But such a betrayal of their country is by no means unexampled. There is a precedent in the annals of these islands, afforded by the Irish parliament of 1662;—a parliament whose interest united with that of Charles II. in abolishing every trace of civil liberty; and who, from their peculiar position, were a more complete committee of monopolizing serviles than it is easy for men of the present day to imagine. This parliament gave to the reigning Stuart and his Irish council, precisely the power over the Irish municipalities which Sir Francis Palgrave recommends to be given to the English council; and the result was the utter extinction in them, by the well known 'New Rules,' of any remaining spark of freedom, and their reduction to that depth of slavish corruption which places them at the present day far even below those of England. This was the perfection of Tory policy (though the name was not applied to this party until after the Revolution); and it is proposed that this conduct, the bare legality of which has often been questioned, should be imitated by the Reformed Parliament of the United Kingdom.

* Even so early as the 17th of Richard II., when it was deemed proper to provide that the Aldermen of London should no longer be elected yearly, but remain for life or until expelled for some reasonable cause, this change was effected, not on petition of the citizens for a charter, and therefore not by such authority, but by Act of Parliament.

The names of Sir Francis's coadjutors on the Municipal Commission, may be esteemed a sufficient guarantee that the sanction of their report will not be lent to his *beau idéal* of municipal institutions, which, coloured by a tone of philanthropy, is that of the Stuart councils, modified, it is true, by the absolute necessity of conceding to the intelligence and firmness of the present age the principle of a popular basis, but with a pertinacious determination to withhold as much as possible of the reality. This model he frames on the rotten lumber of a still earlier state of society, and tricks out with divers faded tatters of antiquity. The members of the new municipalities are all to be nominated in royal charters, including every freeman; the king is to have the power of expelling ruling members from their offices at his will and pleasure; all the proceedings of the communities are to be subject to the ordinances of a visitor appointed by the Crown; no bye-laws are to be valid without the confirmation of the Privy Council, although their accordance with the general law, and their tendency to the public good are already secured by a revisal by the judges, either at the assizes or in Westminster; the class of non-operatives, are to have the privilege of enjoying their municipal rights after a residence of *seven years* in the borough where they shall claim their right; and the despicable class of operatives, whose temptations to 'unrespectability' are so appalling, not until after some much longer residence in the same place,—it is to be hoped within the ordinary term of man's life after he arrives at full age,—and then only on condition that he shall have *laid up a certain sum in a saving's-bank*. The decision as to who shall be considered operatives, is to be vested in an inquisitorial body called a 'committee of trade,' composed of three magistrates of the county, three master manufacturers in the town, and three operatives. This inquisition is to have an unlimited despotism over the poor operatives; and if these last refuse to send their three representatives, three may be nominated by the king, and the committee is still to wield the same power. All this is with the avowed intention of reducing them to the position of those of France, equally galling and precarious to themselves, and dangerous to the rest of society; and could such plans be brought into execution, our factories would soon be in flames, and our cities resounding, like Lyons, with the roar of cannon and of musquetry. Students in the liberal professions even, are to be subjected to municipal death for what the borough magistrates may deem 'ungentlemanlike' conduct, and the colleges or heads of their professions are to be pestered to confirm or rescind their decree. The obsolete guilds are to be resuscitated, and directors &c. of joint-stock companies and

other bodies of uncertain stability, are 'to furnish a portion of the members of the upper bench of the new municipalities, in order to allure the aristocracy of wealth into these bodies.' [p. 42.]

To pursue the detail of all this machinery of municipal despotism would be as useless, as to point out its tendency to poison those liberties which it is no longer possible to withhold. But it behoves the people of England through their representatives in parliament, to be watchful that the rights the restoration of which they are now pursuing, be not cankered by the same influence that has already once subverted their ancient strength.

The impressions above described, have been rendered deeper by the subsequent appearance of the second of the works placed at the head of this Article. It is a compilation of nearly 2,500 pages, with a somewhat vague introduction, in which an attempt to trace a general historical outline of the subject, is united with a strenuous endeavour to establish what appear to be two fallacies of no common magnitude. The first is, that borough communities did not exist as bodies politic previous to the reign of Henry VI, and consequently there are not, and never were, corporations by prescription; although in fact, their prescriptive state previous to this epoch was precisely the same as immediately after it, and the only real fundamental change in the social position of the boroughs was effected by the agencies which have been noticed. The other fallacy (to support which, facts are adverted to throughout the work, either inadequate or opposed to the object), is, that the common assembly of the burgesses of every ancient borough was merely a *manorial court leet*, under the immediate dominance of a feudal lord, appointing a steward to preside in it. This fallacy betrays its tendency, in the design which is immediately founded on it, of enslaving the borough constituencies, municipal and parliamentary, of the entire realm, under the mask of Tory 'Corporation reform.' It being assumed that the municipal and parliamentary franchises are for the future to be identical, or that there are to be no voters in boroughs but burgesses, the mode of admitting these burgesses is laid down. It is, that the crown shall appoint a steward in every city and borough as a lord does in his manor, which steward shall nominate a jury of scot and lot inhabitants, to present or nominate other scot and lot inhabitants to be burgesses, and exercise the parliamentary franchise. This plan, in open violation of public rights, and in disregard of legal maxims, surpasses any invented by the satellites of prerogative

in the days of the Stuarts. And even this engine of despotism, is not to supersede the old burthens of self-elected domination; which are to be maintained, and where they do not exist, created. Such are the views and objects, with which the royal prerogative has been let loose upon us, in this day of hypocrisy, treachery, and shame.

ART. IX.—*Debate on the Danish Claims in the House of Commons, Friday, May 16th, 1834.* Hansard's Debates.

THE Tories are fond of accusing their opponents of designs of spoliation and robbery; or 'spoliation and wobbery' as some of them have been heard to pronounce it.

Here is an instance of Tory paternal government, worthy to be classed with any of the most oppressive and insulting acts of robbery ever committed by a Tudor or a Stuart. Yet these are the men who affirm, that owing to their excellent government,—owing to their protection of British commerce,—owing to their equal maintenance of the rights of all classes of British subjects,—in a word owing to their 'doing justice and fearing nothing,'—this country experienced during their administration a degree of prosperity and happiness never before enjoyed by man. Now 'look upon that picture and on this.'

On Friday the 16th of May, 1834, Mr. Parker rose in the House of Commons and made a statement of which the following is the substance.

In the year 1807, the government of this country, for reasons into which it is unnecessary here to enter, proposed a secret expedition, and antecedent to its sailing, its destination being utterly unknown, placed all the shipping in the river Thames under an embargo. At this time Napoleon, almost omnipotent over Europe, had succeeded in excluding our commerce from all the ports, and our manufactures from all the markets of the Continent. In that state of things Denmark, a neutral power, became the *entrepôt* for the belligerent parties, and an unusual degree of prosperity fell to that state as the emporium of Baltic intercourse. No less than 320 Danish vessels were in the river at the time of this embargo; and a Danish minister was in our capital at the time the expedition sailed. It is important too to add, that some portion of the cargoes of these vessels was consigned for the specific purpose of discharging debts due from Danish to British subjects. In this position of affairs the expedition sailed under Admiral Gambier, with sealed orders. Upon opening these in a certain prescribed latitude, it was found

that the expedition was destined against Copenhagen. The British armament fulfilled its mission. 'Under Divine Providence,' Copenhagen was 'set on fire,' and 'by repeated discharges of artillery, kept in flames in different places *,' the Danish fleet taken, and all the objects of the expedition attained. In retaliation of so unheard-of an attack, the King of Denmark, among other acts of reprisal, first sequestered and then confiscated all British property in Denmark. And he so far departed from the accustomed rules of civilized warfare, as to seize and condemn "book debts" due from Danish to British subjects. To enforce this confiscation, the Danish government commanded all its subjects both in Norway and Denmark, under very heavy penalties, to pay all their debts, on certain terms, into the exchequer; and, upon their having done so, gave them an acquittance in full. The currency too of that kingdom, from the pressure of events, became so depreciated, that, incredible as it may appear, payments of the substantial value of two per cent were sufficient for the nominal liquidation of the debts. The Danish minister left London, and war was declared. The Danish vessels in the Thames were condemned and sold, and became Admiralty droits. The sum of 1,200,000*l.* was produced by this sale, 'And it would at first sight be thought,' in the words of Mr. Parker, 'that out of so vast a sum some provision would have been made for the parties whose demands upon Danish traders had been cut away from under them by their own government. Measures accordingly were immediately taken, and a committee of claimants, with Sir Charles Price at their head, were in constant communication with the Treasury and the Board of Trade for many years. They pleaded the suddenness of the attack which provoked the Danish crown; the unparalleled nature of the confiscation; and the ample means at the disposal of the Treasury for indemnity.' Merchants, as Mr. Parker remarks, must no doubt run the risks of war. But this was not a case of that kind. Here the British merchant saw Denmark a neutral state on terms of amity with his own government, and a Danish minister in London. Nay there were actually cases, where an Admiralty licence for the shipment of goods was granted *after* Gambier's expedition had sailed†. The complete peculiarity of this case, and what altogether excludes it from the applicability of the usual reasoning

* *Sic* in the Admiral's Despatch. See Annual Register.

† See particularly a case detailed in a Petition printed in the Appendix to the Votes of the House of Commons for 1828, under date of July 1828.

respecting commercial risks and calculations, is the very fact of its involving so many large transactions, and by consequence the ruin of so many respectable individuals. In the course of the debate, Lord Sandon said with great force and justice, 'I have constituents connected with this question, and I have lately seen one gentleman who was a very great sufferer by the seizure on the part of the Danish government. He was once a man of great respectability and wealth. His respectability he still retains, but he has been reduced to a state of destitution, in consequence of the loss of his property on that occasion.' Mr. Sheppard said, 'I know parties in the county of Gloucester who despatched a quantity of woollen goods to Denmark, which were seized by that government, as well as a quantity of goods which they had there in store; and no relief has ever been afforded them. The parties were nearly ruined, and have scarcely held up their heads since.' Is it probable, or possible, that so many respectable merchants were engaged in transactions, which could justly subject them to the contingency of a gamester's fate?

But notwithstanding the complete peculiarity, and extreme hardship of the case, it raised no sentiments of justice, awakened no feelings of compassion, in the breasts of his Majesty's Tory ministers. The Danish claimants had in their veins none of the 'patent' blood that circulated in the Upper House, and could command no votes in the Lower, and the Tory party had been too long used to plunder and to power, to make any concessions to justice or humanity. What was it to the reckless prodigal 'which had devoured his living with harlots,' in the midst of his riotous debauchery, that a set of miserable merchants were wasted by penury and overwhelmed with affliction, because he was feasting and rioting on their goods?

However, as a cat may be seen to play with and torture a mouse before giving it the *coup de grace*, his Majesty's ministers told the Danish claimants to wait till a definite treaty of peace was concluded. The claimants were given to understand, that some provision would be made for their benefit in such a treaty. It was moreover intimated to them that the large sum, now become droits, should such diplomatic endeavours be unavailing, would provide sources from whence they might have eventual indemnity. Thus the unfortunate claimants were kept out of their property (which it may here be mentioned, parenthetically, was divided among the members of the royal family, for the personal use and expenditure of the said royal persons), till the year 1814, when they beheld the final discomfiture of all their hopes, as far as diplomacy was

concerned, by the article of the Treaty of Kiel. The 11th article of that treaty provided, 'that all sequestered property, not already confiscated, should be restored.' But the book-debts in question, as well as other property, had been confiscated. They were exempted therefore by the express words of this article, and our just and merciful Tory government, so far from performing its engagements with the claimants by making any stipulations for their indemnity, utterly and finally cut them off from a shadow of hope.

'In 1817,' continued Mr. Parker, 'Mr. Vansittart, now Lord Bexley, came down with a petition to the House, to which the assent of the crown had been given, but said that he should not take it into consideration immediately; and from the ratification of the treaty of Kiel, frequent application was made by the claimants to the Treasury; indeed I may appeal to the right honourable predecessors of the noble Lord, and the noble Lord himself, to say whether their importunity has not amounted to every conceivable definition of what lawyers call "continual claim;" in short, whether their visitations to Downing Street have not been much more frequent than agreeable. After the presentation of the above-mentioned petition by Lord Bexley, recourse was again had to negotiation, and Mr. Canning endeavoured, through the medium of Lord Blomfield, our Ambassador at Stockholm, with which Court we were in close amity, to do something for the claimants—so far, at least, as Norway (which country, as the House knows, was ceded by Denmark to Sweden) was concerned. He could prevail, however, only so far as to induce the Swedish crown to pay out of its Exchequer such sums, as in the mode mentioned in the early part of my observations, I have described to have been paid in; and this concession was limited to those who were carrying on trading intercourse with England. About this period, Mr. Shillito, who has been the London agent of the claimants, and who has discharged his duty to them in a manner the most active and indefatigable, went to Norway, and recovered some monies by reason of the convention just alluded to; but as the payments had been made in the depreciated currency of Denmark, to whose crown Norway was then annexed, the sums recovered were of very small amount, and are only worthy of mention lest it should appear that I was omitting anything which looked like a liquidation of the claims.'

It appears from the above, what a vast quantity of pains the Tory Ministers took to avoid doing what was just. It was in conformity with their good old Tory tactics, their received parliamentary logic, to endeavour to distract their opponent's attention, and keep the real point in dispute as much as possible out of sight. A man of average understanding and honesty would have seen at once, that the way to get rid of a troublesome creditor was to pay him his money and have done with him.

But this was far too straight forward a way of going to work for your Machiavellian Tory tactician. His first-best way was to shuffle off or bully off paying the money at all; his second-best, to try to get somebody else to make sham-payment of it. And then he would swear, or vow to God, his usual resource upon such occasions, that such sham-payment was as *wholy* catholic and real, as Lord Peter's loaf of bread was roast-beef and plum-pudding.

The truth is that the Tories quite shut out all sense of the chances and changes of this unstable world, and imagined, as they perhaps do at this hour, that their empire was to last for ever, and that for them on earth there would be no day of reckoning, no period of retribution. Like their worthy prototype Sir John Falstaff, they did not 'like that paying back,' and they felt themselves strong enough to have what they liked, and to eschew what they liked not. The thieves bound the true men, as Falstaff and his comrades did the travellers. 'Strike; down with them; cut the villains throats: ah! whoreson caterpillars! bacon-fed knaves! they hate us youth: down with them; fleece them.'

But they must be taught a different lesson yet; and there are precedents enough for it when the time comes. One of the first acts of the Long Parliament was to make some of the ministers of Charles's extortions disgorge their ill-gotten gains. In that way 150,000*l.* were refunded by the farmers of the customs alone. One of the first acts of the Reformed Parliament was to admit the justice of the claims of these much injured British merchants. Their claims ought to be made good out of the quarters to which the proceeds of that robbery and oppression were directed. Mr. Warburton said, 'Strictly, and of right, the droits of the Admiralty form a security for doing justice to the natives of this country for acts of injustice done to them by foreign States. Our Government made a seizure of ten times the amount of the property seized by the Danish Government, and yet refused to appropriate a tithe of it - to compensate the parties who now make these claims. This was most unjust. It does not appear necessary to tax the people of England to pay these claims. The property seized by the Crown was divided among the members of the Royal Family; therefore, while there remains a single acre of crown land, it ought to be sold in order to do justice to those parties who have been so greatly injured.' The question, in these analytical days, is easily brought to a statement. Do the Tory ministers or their successors, maintain that the royal family are part and portion of an honest government, or is it their design to hold them

out to the community as lawless swallows of other people's property, whom the people must endure as long as they cannot help themselves. Here is a nation, one by the courtesy of falsehood called free, which supports the expense and risks of war, and sequesters the property of a supposed enemy, as part compensation for the evils that have arisen or may arise from his hostility. But lo! instead of this being applied to any public purpose, even to the compensation of the merchants who suffer on our own side by the act of war,—it is to be expended on the private pleasures of the members of the reigning family, and both the public and the sufferers may whistle for a remedy. This is making men sound the base string of subservience to kingship. Venture the question in America, or any other reasonably governed state, and try to calculate the consequences.

It is due to justice, that these claims, even to the uttermost farthing of principal and interest, should never be lost sight of. It is of no use preaching morality, or recommending industry and honesty to 'valiant rogues, strong and mighty of body,' unless you have stronger argument than words at your command. The Danish claimants, in common with thousands more of their fellow citizens, presented petition after petition, prayer after prayer, in vain; they might have gone on doing so with the same effect for a thousand years with the old House of Commons. The writer of this knew one individual, the ruin of whose expectations in life had been produced by his losses from this robbery, who used to send a petition either to Parliament or to the Treasury every year on this subject for nearly twenty years, till at length he gave it up in despair, and died broken in spirit as in prospects. The confiscation of the whole wealth of the embezzling parties, would be no equivalent for that poor old man's ruined fortunes and embittered age. The Long Parliament restored Prynne to liberty, but could not restore his mutilated body; and though it could punish the murderers, it could not bring back the murdered Elliot from the tomb.

At a time when the Chancellor of the Exchequer (the orthodox Mr. Goulburn) coolly informed the petitioners and the House of Commons, about twenty years after the event, that he had not had sufficient time to make himself acquainted with the merits of the case, and declared that no pledge had been given to liquidate these claims, or that if done, it would open the door to innumerable other claims, (an admirable ground for denying justice), and when even members professing themselves friends to good government spoke tenderly on the subject; it is highly honourable to Mr. Hume's moral courage that he characterized the act as 'a downright robbery,' and said

that if there were no other means of compensation, we were bound to levy a tax for that purpose*. And yet these Tories accuse Mr. Hume of stinginess in his ideas of economy. They are liberal enough when the question is of putting money into their own or their dependents' pockets, but when it is of an act of justice, their cry is all of 'the hardship of taxing the people of England,' and the like. Nobody wants the people of England to be taxed,—Take it from those who got it. It is but justice at the same time to state, that however the Tories as a public and governing body have acted in the matter, several of them have individually expressed their strong sense of the injustice with which the Danish claimants have been treated. For example, in the debate on Mr. Parker's motion, Sir Edward Knatchbull said, 'I have heard with great satisfaction, the noble Lord (Althorp) declare his intention to inquire into the case of these parties, with a view to do them that justice which they have so long sought for in vain.'

The following coincidence is curious and not unworthy of remark. A Treasury minute, dated 9th October 1830, ordered 6710*l.* 0*s.* 10*d.* to be paid out of the droits on account of Buckingham Palace. This is the identical sum which was stated by Mr. Shillito, at the interview with Mr. Herries on the 14th December 1827, as the amount of his individual claim upon the droits. Unfortunate Mr. Shillito!—that his 6710*l.* 0*s.* 10*d.* should be taken from him to build palaces that nobody can live in! But so it must be, till the people of England chuse to return to the rock whence they were hewn.

The country at large, and the Danish claimants in particular, are under great obligation to Mr. Parker for the manner in which he brought this case before the House. Towards the conclusion of his speech he said, 'To the House, then, as the *parens patrie*,—as the guardian of British commerce,—as that branch of the Legislature to which the mercantile portion of the community looks naturally as most connected with their interests, and bound up by the closest sympathy with their pursuits,—as the people's House, bound to maintain the people's rights,—I now appeal. I place my case, as I said before, on the notoriety of the grievance,—on the contemporaneous existence of sufficient funds for compensation,—on the hopes held out of diplomatic interference,—and the complete frustration of those hopes. I have shown that the British claimants have not committed any *laches*,—there has been no acquiescence on their part in any abandonment of their claims. I have endeavoured

* Discussion in the House of Commons. 4 July, 1826.

to convey this case to the House as concisely and as clearly as I can. I thank the House for its attention; and I trust that as last year they agreed to a vote (in which I cordially joined), of 20,000,000*l.* for the emancipation of the slaves, they will not ~~this~~ year refuse to act with justice. I ask no act of generosity; I only ask you to be just.'

Mr. Parker concluded by moving 'that a Select Committee be appointed to examine into the claims of certain British subjects, to be indemnified for the confiscation of book-debts and other property by the Danish government, and to report the same, with observations, to the House.' Many members spoke on the subject after Mr. Parker, and there appearing to be a strong and unanimous opinion in favour of the claimants and respecting the extreme hardship of their case, Lord Althorp said;—'The expression of the opinion of the House upon this subject appears to me to be so unanimous, that I think it would be quite inconsistent with my duty to let it waste more time in the discussion of it. The Government having so completely the authority of the House to act in this matter, I beg to state that measures shall be taken to pay such claims as may be found to be just; and I would suggest to my honourable friend to withdraw his motion, in order that Government may consider what steps it will be proper to take. I felt, throughout the discussion, that it was impossible to resist the justice of these claims; at the same time I did not think I ought, individually, and without the sanction of this House, to take upon myself the responsibility of proposing their liquidation.'

The motion was then withdrawn, and the claimants for book-debts have been desired to 'transmit their claims, accompanied by proofs, for the purpose of inquiry, to Commissioners appointed to receive and investigate the same.' Now it is to be observed, that no mention is made here but of book-debts; whereas some of the cases of greatest hardship were those of cargoes confiscated though shipped under Admiralty licence granted after the sailing of Admiral Gambier's expedition. Moreover many of the Danish creditors do not appear to have paid anything into the Danish exchequer as commanded; consequently the proofs of such claims will be proportionally difficult to procure, and will require time. What effect the stupid readmission of the enemy into the citadel, brought on by the mingled treachery and imbecility that rejoices in the name of Whig, may have on this and other questions, time will show. But the occasion is not the worse, for bringing up and displaying the frank robbery and impenitent dishonesty, of the party by whose supremacy Englishmen are again degraded in the eyes of Europe and their own.

ART. X. — *A Supplement to a Practical Treatise on the Law of Patents for Inventions, with Suggestions of many Alterations on that Law.* By Richard Godson, M.P., Barrister-at-law.—1832.

2. *The Law of Patents familiarly explained for the use of Inventors and Patentees.* By W. Carpmiel.—1833.

3. *Report of the Select Committee on the Law relative to Patents for Inventions.* Ordered by the House of Commons to be printed, 12 June, 1829.

THE Law Lords having pledged themselves to introduce an amended law of Patents for inventions, the last number of this Review contained a narrative of the insecurity, delay, and legal plunder to which an inventor is exposed in seeking for a Patent. An endeavour will now be made to describe the defects of the existing law of Patents, in the remaining branch of it, which relates to the protection of them when taken out; beginning with such of those defects as are most nearly allied to the imperfect regulations observed in the granting.

In examining the proceedings of the law courts, persons not versant in law cannot help being struck with the harsh, unbending, and unjust severity which is exercised in making patents void on account of any little flaw, or contemptible quibble, such as can make neither more nor less the actual merit, either of the inventor or his invention. As the first example, reference will be made to Bainbridge's patent of 1807, for what he called 'Improvements in the Flageolet or English Flute.' At a trial of the validity of this patent before the Court of King's Bench, the merit of the improved instrument was established by evidence, and indeed was undeniable. But then it seems, the whole of this merit lay in Bainbridge's flute having one additional note, which singular addition did not warrant the plural word 'improvements' in the title. On this account, the presiding Judge instructed the jury to hold the patent void. Thus an infringer was sheltered from the punishment due to his undoubted plagiarism, while the patentee lost all the cost of his invention, of his patent, and of his law proceedings, merely because in taking out his patent he committed the verbal inadvertency of naming his invention 'Improvements in the Flageolet,' instead of calling the instrument 'an Improved Flageolet.'

Such a voidance of a patent falls under the rule of the law courts, that a specification shall describe the very invention set forth in the patent, and not another invention; and the principle this voidance proceeds upon is, that the patentee has practised deceit upon the King, and should be punished accordingly. In

the present instance, the alleged deceit would consist in a deceitful exaggeration of the inventor's merit, for if Mr. Bainbridge in applying for his patent had asked for one for 'an Improved Flageolet,' instead of asking as he did for one for 'Improvements in the Flageolet,' then it is possible—so at least the law courts would say—that the King might have perceived that 'an Improved Flageolet' implied less merit than 'Improvements in the Flageolet,' and thereupon might have refused to the former a patent which he granted to the latter. But before the King can be deceived as to an inventor's deserving a patent, it behoves the King's responsible advisers to understand the invention; which they do not, nor so much as profess to do. In fact, the only persons that can be deceived by the title of a patent, are the enterers of caveats, whom it is not possible to deceive by claiming overmuch in the title. Some other instances of the application of this rule, will next be given, in which nothing will be attempted, but to enable the reader to understand the subject, and the decision in each case as it happened.

When coal-gas was first introduced, one of the new incidental products of its manufacture was naphtha, or coal-tar oil, a substance resembling oil of turpentine, but having many peculiarities, some useful, some objectionable. So large and unlooked for a supply of this article as then arose, gave occasion to many ingenious men to try to discover for it new and useful applications; and more patents than one were the result of their ingenuity. Mr. Mackintosh's water-proof cloth, formed by dissolving Indian-rubber in this oil, has perhaps been the most successful. But another very ingenious patent of a still earlier date was taken out by Lord Cochrane, the present Lord of Dundonald. The object of his Lordship's patent was to use this oil in the lamps in streets, where alone, on account of its offensive smell, it could be employed. But in order to effect this purpose, no small degree of ingenuity was required. The great volatility and inflammability of the oil, and the positive showers of soot its burning occasioned, made it unfit to use in any ordinary lamp. Lord Cochrane, however, so contrived to regulate the supply of the fresh air and the exit of the contaminated, as to adapt street-lamps very well for the use of this oil. Having completed the invention, Lord Cochrane, along with his brother Colonel Cochrane, showed it in model to an extensive lamp-contractor in London, who had previously come under a written obligation to secrecy. After examining it thoroughly, the lamp-contractor exclaimed, 'This is new in all its parts. This principle simplified and adapted to common purposes, is what has been so long wanted.' This man nevertheless became an

infringer of the patent when it was taken out. In an action against him before the Court of King's Bench, the Attorney-General (Garrow) was heard on the part of the plaintiff, Lord Cochrane, and examined witnesses; but without the defendant's counsel being required to speak, or to bring forward any evidence, the trial was cut short, as follows:—

'*Mr. Justice Le Blanc.* Bringing in a current of atmospheric air is not new.—*Mr. Attorney-General.* But bringing in the current of atmospheric air and excluding all other air, is new.—*Mr. Justice Le Blanc.* I think this patent cannot be supported: it is in substance a patent for an improvement in street-lamps, and should have been so taken. *Plaintiff nonsuited*.*' Lord Cochrane, it seems, had taken out his patent for 'A method of more completely lighting cities, towns, and villages.' The lamp-contractor, who must have often read in advertisements 'contractors wanted to light—such a town or city,' had reason both to be surprised and gratified, at the ingenuity of the Bench in discovering this to signify something different from lighting the street-lamps of the town or city. If, according to the fiction of the courts, the patentee in his petition deceived the King by giving a false title, certain it is he could not thus deceive the lamp-contractor, to whom the court made that pretence a sanctuary for his robbery. Under such a state of law, how can any patentee hope for protection? Even had the title of the patent been, as Mr. Justice Le Blanc suggested, for 'An improved street-lamp,'—where was the security to the patentee, that some other Judge would not have held that the title should have been, for 'An improved method of supplying air to promote combustion in lamps;' or, more to the point still, for 'An improved lamp wherein to burn coal-tar oil'?

Can any man tell the precise idea that should be attached to the expression, '*an unequal brush*'? It is desirable that the reader should, if possible, fix upon the idea, whatever it is, before proceeding to the following case.

Prior to the year 1816, hair-brushes used to be made like other brushes,—cut quite even,—the bristles in any one cluster being all of one length. But at that time, a Mr. Metcalf made a very material improvement. In forming each cluster he mixed together bristles of different lengths, as an inch and an inch-and-a-quarter; and, doubling such a cluster, he fixed it into a brush, as usual, by means of a brass-wire. Mr. Metcalf's hair-brushes penetrated the hair, somewhat after the manner of a comb; and, having been much approved both as a variety and an improve-

* Davies's Patent Cases.—p. 361.

ment, they have come into very general use, and are probably familiar to most ladies and gentlemen in these islands.

Now, if a person take a cluster of this improved hair-brush between his finger and thumb, and draw them to the extremity of the cluster, he will feel it get thinner, or *tapered* as it were. Doubtless this was the reason why Mr. Metcalf, in taking out his patent, gave his invention the title of 'A tapered hair or head-brush.' Observe the consequence, in what soon took place in an action to make void the patent for this very useful and distinct invention.

"*Lord Ellenborough.* 'Tapering means gradually converging to a point. According to the specification, the bristles would be of an unequal length, but there would be no tapering. If that word be used in its general sense, the description is defective, if the term has, by usage of trade, a different meaning, it may be received in its perverted sense, but I cannot hold out any prospect that the difficulty arising from the grammatical consideration can be removed." After some further evidence, which did not remove the difficulty, his Lordship advised the jury to find that it was not a tapering, but only an unequal brush.' Verdict accordingly.—*Appendix to Report*, p. 203

Now, since the decision avowedly turned upon a grammatical consideration, perhaps it may be permitted, without going beyond the province of critics, to question how far it was well founded. No doubt 'A tapering hair or head-brush' is, when heard for the first time, a very ambiguous expression, but is 'An unequal hair or head-brush' less ambiguous? Does that title any more convey without further explanation a full and accurate notion of the thing invented? If it does, where was the need of binding Mr. Metcalf to give a specification afterwards? Nay more, how could Mr. Metcalf then have obtained a patent at all, under the existing regulations for passing one, without similar hair-brushes being made by somebody else before the sealing of the patent? But the truth is, neither Mr. Metcalf's title, nor the one suggested by Lord Ellenborough, conveys more than a very imperfect notion of the thing invented. The fundamental error of each, lies in its including a fraction of the specification, when it need not have given any portion at all; which fraction thus unnecessarily included, could not do otherwise than convey an imperfect notion of the thing invented. This error would have been avoided, by calling the invention simply 'An improved hair or head-brush.' This title, denoting merely the use of the thing invented, would leave all description of its nature to the specification, of which such description is the peculiar province.

When any name like 'tapering brush' is given to a new article

of sale, it is reasonable and fair to appeal to the general sense of the expression, or the sense of it according to the usage of trade. Mr. Metcalf, in choosing this name, merely used the liberty which the world has always conceded to an inventor, of giving his invention whatever name he thought proper; and the words, in such a name, are not to be interpreted according to the sense of every word apart, but are to be received in the conventional sense in which they are offered, as if they constituted a new compound word. Else why is the name 'hair-brush' understood to signify a brush consisting of hog's bristles, and intended for the hair of our heads,—while by the name 'camel-hair brush' is meant a brush consisting of camel-hairs, without any reference to its use at all? In the choice of a name too, it may in general be conceded to be more the province of a patentee, to select one proper for an article of sale, than of a Lord Chief Justice. Would any lady or gentleman have been persuaded to look at a new-fashioned brush, that had so unpromising a name as an 'unequal brush'? To ward off the infliction of such a name, the brush, if it could have spoken, might have pleaded before the learned Judge in Shakspeare's language,

—he that filches from me my good name,
Robs me of that which not enriches him,
And makes me—poor indeed!

If the report quoted is to be depended on, Lord Ellenborough thought the words 'An unequal brush,' enough, without adding 'for the hair' or other words to denote the use of the thing invented. Yet the next case to be considered is one, wherein for want of such an addition, the patent was held void. When barley is converted into malt, the principal change produced, consists in converting the matter in barley which is of a starchy nature, into a sugary matter capable of fermentation. The process of conversion may be divided into three stages. First, the barley, yet in the husk, has to be steeped for some days in water, till it softens to the very heart. Next, the water being let off, the softened barley is allowed to lie together in heaps, in which stage, vegetation takes place to a certain extent, the little rootlets are seen to sprout forth, and soon afterwards the rudiment of the stalk threatens to burst the inclosing husk. Thirdly and lastly, the vegetation, arrived at this point, is arrested by the application of heat, so as both to expel the moisture that feeds the vegetation, and destroy the principle of life that sustains it. This concluding stage of drying, is now-a-days always effected by means of kilns made for the purpose;

and upon the extent to which it is carried, depend important qualities of the malt. If the temperature be kept low, and the heat slowly raised, the malt will be pale, and though it will yield to beer or porter a high degree of intoxicating quality, which is what is called strength, it will impart little or no colour; whereas, if the temperature be raised or the heat accelerated, the resulting malt will be darker, and impart a proportional depth of colour, with an attendant peculiarity of flavour. But the heat, when so regulated as to produce this colouring and flavouring quality, destroys a portion of the sugar of the malt from which is derived the intoxicating quality, or more correctly the heat converts this sugar into the substance that colours and flavours. So long as malts thus dried to various degrees of shade, were the only means the brewer had of imparting different degrees of colour and flavour to his beer or porter, the maltster had to conduct an art of the greatest nicety, on account of the difficulty of hitting exactly upon the wished-for shades.

Such was the general system of preparing malt prior to 1817, when Mr. Wheeler took out a patent that introduced much simplicity into the operation of drying. He discovered that by a regulated heat of above 100° of Fahrenheit's thermometer, malt could be entirely converted into the colouring and flavouring matter, insomuch that a very small portion of this new kind of malt might be used along with pale malt, in the making of beer, but more especially of porter. The consequence was a new precision in the arts both of the maltster and of the brewer. The maltster now no longer had to study the varied shades of malt; he no longer was in danger of destroying its fermentable part, and the brewer was enabled more easily than ever to impart colour and flavour so as to gratify the tastes of his various customers. But the great value of the invention, enhanced as it was by the simplicity of the process, and placed beyond doubt, as it has been, by general adoption, did not save the patent from being made void on 'a grammatical consideration.'

Mr. Wheeler gave as the title of his invention, 'A new and improved method of drying and preparing malt.' To this title, an objection, sanctioned by all the Judges of the King's Bench, was, that the use of the word 'malt' without any qualification, is deceitful, in as much as a person on reading this title might expect the thing made by 'the new and improved method' to be 'malt,' which, according to the ideas of the Bench as expressed by Chief Justice Abbot, 'was an article of common use before the granting of this patent, possessing qualities long well known,

and prepared or made by a process practised for many years, of which drying was one of the last stages.' Now, before going further, it may be observed on this part of the objection, that if rigid interpretation is to be employed to make void any patent, it is but fair that rigid interpretation should be permitted to support the same patent. Is it then so certain as Chief Justice Abbot assumed, that it is impossible to read the patent (*i. e.* the title) without supposing the patentee to claim the merit of having invented some new or improved method of preparing 'malt,' in the limited sense just given? If drying was the last stage of the common process, what made it impossible to read the words 'drying and preparing,' without believing them to refer to that process? Surely the expression would then have been inverted, for 'preparing and drying' was, with reference to that process, the natural order of expression. In common speech we talk of the sowing and reaping of barley, not of the reaping and sowing. Where then was the 'impossibility' of reading the words 'drying and preparing,' without supposing that they referred to a well-known process of which drying was, in fact and of necessity, the last stage? Moreover, in saying that 'malt was an article of common use, possessing qualities long and well known,' there is reason to fear, from the context, that then Lordships did not bear in mind the great variety that exists in the qualities of malts when differently prepared. With pale malt you may brew strong ale, but not strong porter, with brown malt you may brew strong porter, but not strong ale. And if Mr. Wheeler made a legal error in calling his new preparation by the name of 'malt,' certain it is he has been followed by the common sense of mankind, which alone gives rule to language, for to this day, 'patent malt' is the name whereby it is most commonly known. As a title free from ambiguity, the Judges of the King's Bench suggested the following. — 'A new method of preparing malt for the purpose of colouring beer or porter.' Had Mr. Wheeler given such a title, then, according to Chief Justice Abbot, 'Every person who read his patent would understand that the malt prepared according to his method, was not intended to answer the common and known purposes of that article, namely the brewing of beer or porter, but was intended only for the special and particular purpose of colouring the liquor, and to be used in addition to the common malt.' But, except on the supposition which is contrary to fact, that the colouring of beer and porter was not one of the 'common and known purposes of malt,' it is impossible to understand this language, and to make the difficulty be seen clearly, it will be sufficient to abide by the instance of brewing porter.

For this purpose there would now be used, besides water, these three ingredients,—hops, pale malt, patent malt;—the hops to give the bitter, the pale malt to give the strength, and the patent malt to give the colour, as well as to modify the flavour. Of these three ingredients, keep out any one, and you do not make porter. Therefore it is impossible to comprehend what is meant, when it is said of patent malt, which is one of those three ingredients, that ‘it is intended not for the brewing of porter, but only for the special and particular purpose of imparting colour to the liquor,’ and it might have been added, of imparting flavour too. But as well might it be said, ‘The hops are intended not for the brewing of porter, but only for the special and particular purpose of imparting bitter to the liquor; neither is the pale malt intended for the purpose of brewing porter, but only for the special and particular purpose of imparting to the liquor alcohol and carbonic acid.’ In fact, malt, such as was formerly used in the brewing of porter, may be said to have possessed two sets of qualities; and if, as is not difficult to conceive, it were practicable by mechanical or chemical means to separate into two heaps the portions of the malt whereon each set of qualities depends, then we should have one heap the same as ‘pale malt, and another much smaller heap the same as patent malt. The learned Judges therefore must be suspected to have been under a misapprehension when they held forth, that ‘patent malt was intended not for the known purpose of brewing porter, but to be used in addition to common malt.’ Pale malt, without the addition of some of another quality, never would make porter. Under the old plan, brown malt was essential; and at the present day, when patent malt is used, it is not as an addition to brown malt, but as a substitute; and in this respect the patent malt is precisely in the same predicament as the brown malt. It is brown malt a little browner. It is brown malt with the brownness and flavour concentrated into a smaller relative number of pounds of malt than they used to be. But the truth is, every part of this memorable decision proceeds upon the erroneous assumption that the qualities of malt, ‘long well known’ as the learned Chief Justice described them to have been, were invariable. Far otherwise, however, is the fact; and the same assumption might with equal justice have been employed to destroy the patent, had the object of it, as is within the possibility of things, been exclusively to make pale malt.

It is not intended to maintain the perfect propriety of Mr. Wheeler’s title. ‘An improved preparation of malt,’ would probably have been preferable; though no stretch of human

intellect could foretell with precision, whether such a title would succeed in the lottery of a patent trial at law. The concern, indeed, is less with a question of law, than with a question of legislation; and in this view, to show more fully the unjust operation of the law as it is supposed to stand, let it at once be assumed that the additional words 'for the purpose of colouring beer and porter,' which the learned Judges thought needful, had been given in the title. Even then, a practical difficulty would arise, which might indeed never occur to the learned Judges, but which cannot fail to strike every considerate practical man. This addition of theirs, would have been enough to enable maltsters to find out the new process in a day, or a week, or a fortnight, or at all events long before the patent could be sealed. In Mr. Wheeler's invention, the novelty and the great merit consisted in discovering what for generations before had never been observed, or if observed had never been made practically available, that malt could be *entirely* converted into the colouring and flavouring substance of beer or porter; but the bare fact being once credibly told, or hinted, scarcely any clever practical man could fail to hit upon the means. What then is the unhappy inventor to do? He is to lose his patent, however valuable, if, during a vexatious delay such as he cannot prevent, he drops any hint that shall betray the nature of his invention; and he is to lose his patent afterwards, if he has abstained from giving such a hint. This perplexity is well illustrated by the following statement of a witness, accustomed to advise patentees in their proceedings.

Mr. Farey.—'The instant that a man, by any means, announces to his competitors in trade, that he is engaged in a new invention, they are all upon the watch to find out what it is, and if they only know the object of it, or what part of the process it relates to, they can examine into the circumstances of their own processes, to find out something for the like purpose, if not the same.'

'Do you not word the title obscurely, in order to avoid directing public attention to the subject?'—'Yes; but there is danger in being too obscure; because then a court of justice may afterwards hold that it is an invalid patent for want of coincidence between the title and the specification. It is one of the most metaphysical problems that I know, to prepare a title to a patent; it generally takes me two or three days to make up my mind about the wording of a title;—not to be so clear as to call the attention of rivals and enable them to discover the subject, nor so obscure that a court of justice may afterwards rule it an imperfect description or title of the invention described in the specification. As our practice is now, if Judges cannot find in the title of the patent what has been called the general index of the specification, they set the whole patent aside. The difficulty of

making a correct general index to a work not yet composed, must be very great.'

In such perplexities, other practical men who may not have Mr. Farey's habits of consideration, nor be qualified to undertake metaphysical flights, have no better resource than an appeal to the dice-box, which, they may be assured, will carry them over legal difficulties quite

as high
As metaphysic wit can fly.

In all the foregoing cases, the patents were made void in order, as must be inferred, to punish patentees for grammatical or metaphysical improprieties, committed by them in the wording of their titles or specifications. Whether such offences deserve such a punishment, it is not necessary curiously to inquire; it may be sufficient to quote a sentiment of the presiding Judge on the last of the foregoing trials, as uttered by him from the same bench at another trial many years afterwards.—

'I cannot forbear saying, that a great deal too much critical acumen has been applied to the consideration of patents, as if the object was to defeat, and not to sustain them.'—*Godson's Supplement*.

Such was the matured opinion of the late Lord Tenterden. And in what manner observant practical men, not of the legal profession but versant in the details of patents, have been struck with like decisions, will appear from the following extracts.—

Mr. *Arthur Aikin*, Secretary to the Society for the Encouragement of Arts.—'There is a thing which I have observed with regard to patent causes, which induces me to recommend that the patent should not be liable to be thrown aside by mere legal objections, which is this, that on trials on those occasions it not unfrequently happens that neither the jury nor counsel, nor even the Judge, understands the subject. The natural tendency therefore in the minds of the Judge and counsel is to decide the case before them on a point of law, that being a subject with which they are familiar, rather than on the practical parts of the specification. I have seen this happen so frequently, that it should be prevented if possible; because it is not doing justice to the patentee, nor to any party at all.' (*Evidence*, p. 45.)

Mr. *Newton*.—'In law suits for setting aside patents, it is scarcely ever that the broad question is argued in court,—I mean by taking the whole plan before them, and seeing whether the invention is original. Most commonly the patent is overturned upon some little point, or upon some legal question. The merits of the question are very seldom gone into in court. If there is any faulty point, they take hold of that first.'

‘ In other words you mean to state, that a person, who in fact deserves a patent for a meritorious invention, loses it for some trifling thing ’—‘ For some trifling thing, which he has included ignorantly or incautiously.’ (*Evidence*, p. 76.)

Mr. Farcy.—‘ It is so generally known that patents are always likely to be overturned, that it would be worth the costs of an action to have the chance of getting over a patent for a great invention. Manufacturers, capable of carrying on such an invention, and engaged in a great trade, would not be deterred by the expenses of law, should they conceive themselves improperly restrained by a patentee, but would certainly bring his patent right to trial, even if they did not see any technical flaw.’ (*Evidence*, p. 142.)

‘ The Judges are so acute in observing technical defects in a patent and specification, that they find them out, even though not pleaded by counsel.’ (*Evidence*, p. 145.)

That every patent and specification should be drawn out in accurate language, and in proper legal form, no man of sense will deny. Not less obvious, however, is it, that such accuracy of language, and such propriety of legal form, should be seen after, and insisted upon, by a competent legal officer, before ever the patent comes into force,

On turning to the consideration of points more immediately affecting the merits of a patented invention, it will be found that the existing law makes it indispensable, that the invention shall constitute a new manufacture. This expression, new manufacture, may have either of two significations. A stocking was a new manufacture, the first time one was knit; but a stocking was again a new manufacture, the first time one was made by a loom. In the first case the thing made was new; in the other, the art of making that thing in a particular way. Accordingly in these two senses the reader will find the word ‘ manufacture ’ set down in Johnson’s Dictionary, and in Webster’s. This well known double signification of the word has, however often most unaccountably been overlooked. Some Judges, in ill accordance with other terms of the Act they interpret (21 Jac. I. cap. 3.) have insisted, that a new manufacture behoves to be a new saleable thing made; and they will not admit a new method to be a new manufacture, except when that method, as in the stocking-loom, happens to be a new piece of mechanism, itself an article of sale; but when the new method constitutes only a new process, then, however valuable that process may be in manufactures, and however difficult or meritorious to discover, they will not regard it as a new manufacture, and consequently not as a proper subject for a patent. The practical bearing and importance of this confined interpretation of the word manufacture may be appreciated, when the fact is stated, that Watt’s

patent for his first and great improvement was principally endangered by a doubt, whether in law, he had made an improvement 'in any manner of manufacture.' Upon this point, the Judges of the Court of Common Pleas were equally divided; and when the question was carried to the Court of King's Bench, the Judges there, upon the first hearing, were inclined to reverse the patent, although happily for the cause of justice, they altered their minds on more mature consideration. Of more recent occurrence is the already noticed case of Mr. Wheeler's patent for preparing malt, in which the Judges entertained a like doubt. Yet in such a case their doubt appears the more unaccountable, since the improved method of Mr. Wheeler, had it consisted in complex machinery, would without hesitation have been pronounced by them a proper subject for a patent, though the very absence of complicated machinery, while it appears that it takes away all the legal merit of an invention, adds much to the value of it considered as a manufacture. In Wheeler's case, it is indeed very true that the Judges did not positively decide whether his invention, in so far as it consisted in a new process, was not a proper subject for a patent; but Lord Tenterden, in giving what he pronounced as 'the deliberate and considered opinion of the Court,' expressed himself in so doubting a manner, as to show how much upon this point the law needs to be defined. The most positive expression employed by his Lordship is the following:—

'The word manufacture *may perhaps* extend to a new process.'

The only further elucidation of his Lordship's doubts is to be found in the following allusions:—

'*Supposing* a new process to be a lawful subject for a patent—'

'Admitting that there *may be* a patent for a process only--'

Under the existing law therefore,—or more properly, under the existing want of law,—it is quite possible, that a man may invent a new process of manufacture, after much cost, labour, and ingenuity, and that he may ask for a patent for it, which will of course be granted him, and yet, as Mr. Rotch with justice complained to the committee, no counsel can tell whether such a patent will be held good. The only information that counsel can give, is, that it will be held good—or bad—*perhaps*.

There is another word which, in 'patent causes, is used as a rival to the foregoing word 'manufacture,' but still more ambiguous in its meaning, and which, recommended by such ambiguity, is in very frequent requisition. This word is 'princi-

ple.' In unhappy hour, some judge laid down the law, that there could be no patent for a 'principle.' By these words, what was meant was, that no mere property of matter could be monopolized by a patentee. For example, some years ago, when Dr. Faraday discovered that certain gases could be condensed into a liquid form, Sir Humphrey Davy in a supplement to Dr. Faraday's paper, suggested that, under that form, they might be applied with advantage to produce mechanical motion, by the strong force of their expanded vapours, but he did not invent or describe any adequate practical machinery to effect such an application. Accordingly, a patent for such a suggestion, had one been taken out for it, would have been void in law, as claiming an exclusive privilege to make use of a mere property of matter, and not one to practise a specific new manufacture. Though at the same time there appears no reasonable cause,—if reason were looked for in law,—why the discovery of such an applicable principle, should not as well deserve to be rewarded by a temporary monopoly, as the assigning (which may perhaps be of no difficulty at all) of an instrument for applying it.

Had the rule, however, stopped here, the vexation of experience might never have tempted the patentee to adopt against what lawyers have called a 'principle,' the spirit of an old poetical exclamation—

Noisy nothing! Stilking shade!
By what witchcraft wert thou made?
Empty cause of solid harms!

To make this law-phantom, the witchcraft used by the lawyers consists in mingling three different meanings together, and, by the aid of certain professional solemnities, producing a mystical word, capable of harlequinizing an idea into many various forms. The three different meanings thus mingled together, may be readily detected, by viewing a single well known invention under various aspects. Watt, in the specification of his first patent, says, 'my invention consists of the following principles,' and then he proceeds to describe the several parts of which it consists. Here the word principle means Constituent Part. Again it is very usual to say, that the principle of Watt's first patent consists in the use of a condenser, separate from the vessel wherein the expansive force of the steam operates. Here the word 'principle' means the essential and peculiar part of an invention. Lastly, the steam-engine of Watt, as well as the prior ones of Savery and of Newcomen, all operate by the alternate expansion and condensation of steam; and these available properties of steam are called principles—mere properties of

matter. Now the mystical word formed by mingling these three meanings, has been used to conjure up sometimes one idea and sometimes another, in books and in discussions at law; and vast contradiction has been introduced into the answers to the question 'Can a patent be maintained for a principle?' There are instances of the justification of an infringement, on the ground that the infringer had, in some subsidiary part of his plagiarism, introduced a trifling alteration, which, being a constituent part of the manufacture as practised by him, was called by him a new 'principle;' and, on this pretence, the manufacture as practised by him, was maintained to be different from the one in the patent, although in all essential parts the two were the same. And in books of authority, and in decisions from the Bench, may be pointed out cases in which the rule that no mere 'principle' would warrant a patent,—meaning only that no mere property of matter can be monopolized,—has been construed to justify the infringement of a patent in the essential and peculiar part of it, which also had the misfortune to be called by the name of 'principle.'

About forty years ago this word 'principle' made a great noise, in the case of Watt; and after the decision then come to by the Court of King's Bench, it seems surprising that any perplexity should still attend the word. In that case, the opinions expressed by the several Judges were in substance this. 'Whether a principle,—meaning a mere property of matter,—may be a proper subject for a patent,—is, (whatever idea we may severally form of the thing so called), not the question before us; which is, aye or no, does Mr. Watt's invention constitute a new manufacture?' This opinion was dictated by sound sense. 'Aye or no, a new manufacture?'—is clearly in every patent the practical question, and that question being answered either aye or no, the other 'Can a patent be maintained for a principle?' is a purely speculative question, and, with reference to practical purposes, as idle a one as a man can propose.

But the subject for a patent must not only be a manufacture, it must also be one that is new. This rule, reasonable as it is, has operated with much injustice on patentees, partly owing to an overstretched application of it, but chiefly to the unfair circumstances under which the rights of a patentee are submitted to trial. In every case, he has to give evidence in support of the validity of his patent first, and afterwards to listen to evidence to invalidate it, brought forward on points of which he has had no previous notice, and upon which he would not be allowed to adduce evidence in reply, even if accident put

him in possession of what foresight could not. A patent set aside under such circumstances, is to all intents and purposes a patent set aside on the evidence of the opposing party only. The plea of the patentee has been made known to the world; he claims neither more nor less than what the specification sets forth; the invention therein described, he avers was new at the date of his patent. But who knows what is to be averred by his opponent;—what quibbles, what misrepresentations, what prior practice, are to be alleged;—when, where, and by whom? Hence the ease with which patent rights are destroyed, by trick, by surprise, by perjury. The most usual, and indeed the most obvious expedient is, to bring forward a man from a remote part of the country, totally unknown to the patentee and to everybody else that sees him, except the party by whom he has been hired. It is an everyday occurrence in patent-causes. The strange man swears he did the thing,—he takes care to say,—ten, twenty, aye forty or fifty years ago. Why he abandoned a fortune-making business,—or what people he dealt with,—he does not remember;—but the thing itself he remembers—perfectly. And as if that no facilities should be wanting for the commission of perjury; a novel scheme was recently tried, and sanctioned, of allowing a witness who pretends to have made the invention formerly, or to have wrought it, but who it would appear could not describe it, to look at a drawing prepared purposely by another man, and swear—as a parrot could swear—‘That is the very thing I did.’ Another witness,—one brought forward in the lurking manner that the law permits, and that so well suits the character and designs of the patent-robber,—had the face to swear, that twenty or thirty years ago, he had wrought the patented invention under a master of his, who had a patent for a like invention. Utter surprise might well seize the patentee whose rights ~~were~~ under trial, and who had the mortification to see his patent set aside. But how was that mortification embittered on discovering, that no such prior patent had ever been in existence! To be sure, another day of the lottery of a new trial was perhaps to be obtained, and in that hope, the patentee instituted an action for perjury. But the witness whose false oath broke the patent, escaped to America. The law, too, permits the evidence of one such witness, to establish a prior practice which, had it ever taken place, must have been known to hundreds. So long as the rights of a patentee come to trial under such circumstances, the name of protection which the law assumes, is a mockery, except as it applies to the patent-robber and the perjurer. But the existing law requires that the invention shall be new,

not merely as a whole, but in all its parts, or at least in all such parts of it as the specification may be construed to claim as new. Apart from several difficulties that seem inseparable from such a rule, the application of it has been governed by a spirit of harsh severity, such as persons not conversant with law will find difficult to reconcile to their notions of common sense or justice. In proof it will be enough to give a single instance, wherein its application was demanded on the behalf of a patent-infringer, and where a counsel of ability and experience, and with shrewdness enough to foreknow the effect of his words upon the court and the jury, felt himself so secure in the severity with which the rule would be administered, as thus to hold up the rule in all the nakedness of its injustice.

Mr. Sergeant Copley, now Lord Lyndhurst, in the case of Bovil against Moore.—‘It was but a few days ago, an action was tried for pirating the patent for an umbrella. On adverting to the specification, it appeared that the patentee had described his invention as consisting of so and so, and so and so. The witness was asked what was new, and he described the parts; but because the specification did not distinguish the new from the old, the plaintiff could not have the benefit of that which was new, and was nonsuited, although every gentleman from his own knowledge, and his own recollection, would be competent to say what was new, and what was old.’—*Davies’s Patent Cases*, p. 318.

The patent here alluded to was Macgregor and Macfarlane’s of 1818, for improvements in the construction of umbrellas and parasols. In the drawings attached to their specification, all the new parts were given together in a figure by themselves, although they were not in words distinguished as the exclusively new parts. The patent was thus made void, not even for any grammatical or metaphysical impropriety or error, much less for the withholding of any needful information, but for the want of a form of words manifestly needless, not only to every umbrella-maker, but to every man, woman, or child, that ever carried an umbrella.

Under laws of such unjust harshness, it is not surprising that an obstacle to their enforcement should sometimes arise in the sturdy common sense of juries; and indeed such obstacles would occur much more frequently, were it not for the utter perplexity of juries, called upon as they are in many cases of patents, to consider points of dispute altogether beyond the range of their knowledge or experience. One such case of resistance, is found in the present Report (*Bramah against Hardcastle*, Appendix p. 486). In that cause, the patent was for a very convenient piece of household apparatus, which has now come into general

use. Lord Kenyon, the presiding Judge, in addressing the jury, admitted that one part was very ingenious and perfectly new, but that part was not exclusively claimed, as it ought to have been, by the patentee.

‘Unlearned men, said his Lordship look at the specification, and suppose every thing new that is there, if the whole is not new, it is hanging terrors over them. In a former machine, there were parts in principle the same, obtaining the same effect—whether those means differ in shape, is not material. I think the patent void, those parts not being new.’

In this case, there can be little doubt that the decision of the jury was better founded than the charge of the Judge. The men that his Lordship styled unlearned, are mechanical people, versant in the branch of manufactures to which the patent belongs, and who, with reference to the disputed invention, are, in the strict sense of the terms, learned men. With such persons, no difficulty of distinguishing new and old parts ever does arise; the profession of difficulty, is confined to such as the courtesy of the Law Courts terms the learned.

But the same rule often acts with harsh severity, even when applied to cases where the want of novelty in some part of the patented invention is better founded than in the mere absence of a protest against that part being understood as claimed for new. The case of Mr. Burton’s chain cable may afford an instance. This gentleman took out a patent for a ship’s anchor, a ship’s cable, and a ship’s windlass. The anchor was found to be new by the jury, but was afterwards, on a motion for a new trial, construed by the Judge to be old. On this account, the patent was held void, in relation not only to the anchor, but to the windlass which was admitted to be new, and which alone had been infringed upon. No doubt every patentee should be restrained from claiming in any invention, however undoubtedly his, even the smallest part that others may have practised before; but the penalty of losing his law expenses, in the case of his patent proving bad in part, seems to afford motive enough to induce him to take every available precaution. Even, however, when every such precaution has been taken, some part of an invention may have been previously practised by another, altogether unknown to the patentee; and surely, that is a poor justification for taking from him the remainder of his undoubted invention.

When prior practice has been proved, whether in whole or in part, it not unfrequently happens, that the very evidence to prove the prior practice proves also that it has been long abandoned, and has to all intents and purposes *been* a lost

manufacture to the country. It is only really valuable inventions, of which the patents are ever disputed; and whenever evidence is found of such inventions having been practised for a short time and then abandoned, it may fairly be presumed that in the invention as thus practised, there were imperfections, concealed by the witnesses, or more probably forgotten. A very general impression, therefore, has prevailed, that evidence of prior practice should be limited to a given period of years.

But in every case where the peculiarities of an invention have to be considered in relation either to prior practice or to infringement, the patentee is kept in alarm, lest, be his cause ever so good, it may miscarry, not for want of patience or talent in the Judge, but want of the knowledge in manufactures, and the experience, which are needful to form a correct opinion in patent cases. Some instances of such incompetency in decidedly well-meaning Judges, will form the last item in the catalogue of the wrongs of patentees.

Even in the just-mentioned case of Mr. Burton, the decision of the Judges as to the anchor being old, was one which practical men would have hesitated to pronounce. The fact was proved and admitted, that ship's anchors like Mr. Burton's had never been used before; but the peculiarity of his invention was detected, or supposed to be detected, in other sorts of anchors, one for mooring, and one for small craft; inasmuch that the Judges conceived, that the novelty which as regarded ship's anchors could not be denied, was yet not enough to merit a patent. In coming to this decision, and in contemplating the result of it, the Judges expressed the pain they felt at the necessity they were under; in which they must be understood as expressing their censure of a law, which it was their misfortune to administer. The merits of such a decision may be tried by an imaginary case, borrowed from the history of the steam engine.

Everybody knows that one of the first uses of the steam engine, and indeed for almost a century the only use, was to pump up water from mines. Savery's engine, which was the first, employed the alternate condensation and expansion of the steam, to suck as it were, and then to shove up the water, by the direct application of the steam. Newcomen's plan, and Watt's after him, consisted in applying the steam to a piston, and producing an up-and-down motion; and this up-and-down motion answered well enough for the purpose of pumping water. But most other useful purposes required a motion round-and-round. Hence very soon after Watt had made his first great improvement, which added so much to the powers of the steam-

engine, it became a problem among engineers to convert this motion up-and-down into a motion round-and-round. In this view much ingenuity was exercised, and many schemes were tried. Scarcely a mile from where this Article is written, middle-aged men recollect buckets being hoisted out of a coal-pit by the clumsy expedient of using the water that was pumped up to turn a water-wheel; and it was not till after many such attempts, that somebody hit upon the present plan of introducing a crank and fly-wheel as in the street knife-grinder's machine, where that device converts the jerking motion of his foot into a regular motion round-and-round. This addition to the steam engine has given more increase to its use, than even Watt's happy idea of a separate condenser. Yet if the inventor of this most important improvement in the steam-engine had come before the Law Courts, the Judges, acting on the same principles as in the cases alluded to, would have said, 'This is not new. It has been used by every knife-grinder in the street, and by every old woman that spins a wheel.' It would be difficult to persuade any mere lawyer, that there could be any merit in such an invention. Yet Watt missed it, and many other ingenious and practical men besides. Still more would it be hard to convince a mere lawyer, that there could be the slightest difficulty or merit in carrying into effect the practical application of such an invention. Yet a report of Smeaton's is extant, in which he pronounces such an application to be impracticable.

Many cases of erroneous decisions in consequence of the Judges being ignorant of manufactures, might be selected from the reported cases. For one, reference will be made again to the patent of Mr. Wheeler.

In that case, the presiding Judge stopped the trial on the reading of the specification, and instructed the Jury to find that the specification was inadequate. The grounds of this instruction have already been animadverted on, in considering the existing law of patents in relation to the titles and specifications. But, upon a motion for a new trial, the court refused the rule on the same ground as the presiding Judge, and upon the further ground of what was called 'the apparent defects' of the specification. This, therefore, was a case in which what was pronounced as 'the deliberate and considered opinion of the court,' was formed upon a question of manufactures,—purely upon their Lordships unaided knowledge of manufactures. To make the opinion thus pronounced intelligible, it is necessary to quote the specification of Mr. Wheeler, which after the elucidation offered of his process, will present little difficulty*.

* Repertory of Arts, vol. 32, p. 65.

'My invention consists in the heating of malt to four hundred degrees and upwards of Fahrenheit's thermometer, according to a process or processes hereafter described, and in so heating it, that the greater part of the saccharine and amylaceous principles of the grain become changed into a substance resembling gum, and extractive matter of a deep brown colour, readily soluble in hot or cold water. A small quantity of malt thus prepared will suffice for the purpose of colouring beer or porter, and may be used with advantage as a substitute for the colouring made of sugar, which was allowed by the Act of 51 George III, cap. 87, and prohibited by the 56 George III, cap. 58. The apparatus for preparing the malt may be variously constructed, provided they be made of such materials, and so formed, as to be capable of allowing the grain to be sufficiently heated. I have found one convenient mode of applying the heat to be by means of a cylindrical iron machine or vessel, similar in its construction to that now commonly used with a revolving motion for roasting coffee. During the process, this machine should be kept in motion, in order that the malt may be dispersed, or made to change its position as often as possible, to prevent its agglutinating, adhering to the vessel, or becoming carbonised; and with this view the vessel should be drawn out from the fire very frequently, either every minute, or at intervals of from one minute to five minutes, according to the intensity of the fire. When this treatment has been continued a proper time, the grain becomes very highly coloured, and in this state a given quantity of it, ground and digested in hot or cold water will yield the deepest coloured solution. If the process be continued too long, the temperature be raised too high, or the grain be not sufficiently agitated, its colouring property will be diminished, and ultimately it will be converted into a coaly substance, insoluble in water, and of course yielding no colour.'

Here follow several varieties of apparatus for the same purpose; which are omitted for the sake of brevity.

'In regard to the time requisite to produce the proper effects upon the grain, it is obvious that it must be variable, depending upon the size of the apparatus, the quantity and quality of the malt, the perfectness of the operation, and particularly upon the heat employed. It being evident that a lower temperature will require a longer time than if a higher temperature is employed, which requires particular attention and management to prevent the grain from becoming converted into charcoal. The proper degree of heat, and the time of exposure, will, however, be easily learnt by experience, the colour of the internal part of the grain affording the best criterion.'

The objections of the learned Judges to the foregoing specification may be comprised in two quotations.—

"The patentee does not mention the state in which the malt is to be taken for the purpose of undergoing the process; whether in a moist or a dry state."

The difficulty here started is one that never would occur to a

maltster; and for such alone is the specification intended. No man that has the slightest knowledge of the nature and properties of malt, would ever conceive the malt ordered to be heated, to be any other substance than malt after it has undergone the usual previous preparation; any more than a sailor would feel a doubt, whether an anchor was to be used when the ship was launched or before. Indeed, while passing from barley to malt in the hands of the maltster, the grain is in an intermediate state for which language supplies no precise name; just as a shoe, while it is making, can neither be properly called leather, nor properly a shoe.

“The patentee has not described any certain or precise process; he does not state what heat beyond 400° of Fahrenheit’s thermometer may be used; he does not furnish the operator with any means of knowing when he has this degree of heat; he does not say during what length of time the process is to continue, but contents himself with saying that “the proper degree of heat, and time of exposure, will be easily learned by experience, the colour of the internal part of the prepared grain affording the best criterion.”

The object of Mr. Wheeler’s process was to produce a new preparation of malt. If Mr. Wheeler explains the process he employs for that purpose, which he has done in the most explicit language; if moreover he gives to the maltster a test whereby to know when the prepared malt is right done, when over done and when under done; he has given all the criterion any maltster can desire, as to the degree of heat, and as to the time of exposure. Now has Mr. Wheeler given such a test or not? Assuredly, if he has, it has been overlooked by the learned Judges. Yet in the eyes of every practical man, there is on the face of that specification, the most explicit test, which the nature of the process admitted, for judging when the malt was properly prepared. In that state, Mr. Wheeler expressly says in the specification, ‘a given quantity of it ground and digested in hot or cold water, will yield the deepest coloured solution.’ Guided by this direction, any practical man would immediately adopt some such expedient as the following. In his first attempt at preparing the patent malt, he would take out half a dozen of specimens roasted to different degrees; some of which would probably be too little, and some would be too much roasted. A part of each of the six specimens he would grind, and of each ground specimen he would take an equal weight, suppose an ounce; and he would steep each of the six ground ounces in equal quantities of water, and for an equal space of time. After the colour was thus extracted from the roasted malt by the water, he would

take six glasses of one size and shape, and each of these glasses he would fill from one of the six coloured solutions. Thus he would find out which specimen afforded 'the deepest coloured solution.' That specimen would be the one done right. The rest would be rather over done or under done. Having thus ascertained which was done right, which over done, and which under done, he would look at 'the internal part of the prepared grain;' and by the repetition of such experiments it is, that he is to acquire the experience which, whether Mr. Wheeler said it or no, was sure to be his ultimate guide.

The temperature mentioned by Mr. Wheeler is '400° and upwards of Fahrenheit's thermometer.' Whether the learned Judges wished one precise degree above 400° to be mentioned, or only the highest degree that the malt would bear;—whether their Lordships were aware that the nature of the process would not admit of a fixed degree of heat or a limited time of exposure being specified, since these must vary as Mr. Wheeler says 'according to the quantity and quality of the malt' to be acted upon;—or whether, aware that the nature of the material and of the process did not admit of such precision, their Lordships held the patent void because the malt would not suffer itself to be changed at a fixed degree of heat, and in a given time of exposure;—the language of the learned Judges does not clearly tell. Having laid before the reader the specification itself, it is needless to explain to manufacturers practically versant in such processes, why Mr. Wheeler did not give a more precise degree of the thermometer; for they know that upon this particular, he has given all the information that can be of any practical use. As little need is there to justify Mr. Wheeler's instructions, in that particular, to men of science accustomed to the precision of experimental research; for they know that, in a process like Mr. Wheeler's, greater precision, although it may be affected, is not to be in practice attained. But that everybody may judge of the precision to be expected in such a case, reference shall be made to the result of experiments performed, not by such operatives as a maltster must employ, but by the most eminent authorities in science;—not upon a degree of heat really variable according to the various qualities of a substance like malt, but upon a degree absolutely fixed by nature. The melting point of tin happens to be at '400° and upwards of Fahrenheit's thermometer;' and the precise degree is thus given by received authorities.—

Newton	-	-	-	-	-	410°
Crichton	-	-	-	-	-	442°
Morveau	-	-	-	-	-	512°

What would the Judges have said, if a chemist had been asked the melting-point of tin? And yet the same Judges, guided by their own unaided knowledge in science and in manufactures, held as a ground for making void a specification, the 'apparent defect' of not stating 'what heat beyond 400° of Fahrenheit's thermometer must be used in the case of malt.'

The second and last case which will be mentioned, occurred in the trial of Hullet against Hague. It occupies pages 17 to 24 of Mr. Godson's work. An extract will be given of the material points.

In 1822, Knight and Kirk took out a patent, of which the object was to promote evaporation at low temperatures, by passing streams of air through the liquor to be evaporated. For this purpose a coil of pipes with little holes bored in them, or a flat shallow vessel with holes like a colander, was placed at the bottom of the evaporator, so as to receive the air from the blowing apparatus, and transmit it through the liquor.

In 1829, W. G. Kneller took out a patent for precisely the same device; but the subsidiary means were varied. He blew air into large pipes, indeed; but these, instead of being placed at the bottom of the evaporating pan, were placed close above the surface of the liquor, over which they were distributed, and from these pipes smaller tubes in great numbers dipped down into the liquor to near the bottom of the evaporating-pan, so as to let the air out at the lower extremity of these tubes; which extremity was in all of them prescribed to be at an equal distance from the surface of the liquor, in order that the air might get out of all the tubes at one time; which, otherwise, the varied pressures of the different depths of the liquor might prevent. By this device the air passed out under precisely the same pressure as if it had issued from tubes upon the plan of Knight and Kirk. In all their essential parts no two inventions could be conceived more alike; yet, in the opinion of the Court of King's Bench, as delivered by Lord Tenterden, they were 'perfectly different.' 'Knight and Kirk's plan,' as his Lordship said, 'was to have either a pipe, accommodated to the form of the vessel, or a colander placed at the bottom of the vessel. The method of Kneller is to have a large horizontal tube (near the surface of the liquid) into which there are introduced a number of small perpendicular tubes descending through the liquid to the bottom of the vessel.' (p. 23.) Where the air may be sent before it comes into operation,—whether above the surface or below the bottom,—whether to the garret or to the cellar,—is of no more consequence than the position or shape of the bellows employed to supply the air. The orifices for

admitting the air are at the bottom in both. The air issuing from them is resisted by the same pressure, and produces the same effects. Yet identical as they thus essentially were in their means, in their design, and in their effects, they were held by the Judges to be 'perfectly different.'

It was in this case that Lord Tenterden pronounced the memorable words already quoted, 'I cannot forbear saying, that a great deal too much critical acumen has been applied to the consideration of patents, as if the object was to defeat, and not to sustain them.'

Surely there must be something in patent cases beyond the reach of the knowledge or experience of Judges, when their severity and their indulgence prove alike fatal to the rights of the inventor.

Enough has been said to prove, that the protection afforded to patentees, is defective both as regards the law, and as regards its administration. How far the imperfect regulations for passing patents, and the imperfect protection afforded them when passed, serve to discourage our men of science, few of whom do devote themselves to manufactures, although many gladly would,—is made manifest by the fact, that in this country, where the division of labour has been carried to such minuteness, no profession or class of persons devoted to the improvement of manufactures can be said to exist. Individuals, no doubt, are employed for such a purpose at a few great manufactories; but then, no one manufactory can afford scope for a succession of great improvements. Hence individuals thus employed, are only occasionally kept at attempting improvements, and they are much more commonly kept at routine work, such as very inferior hands might be equally fit for. The consequence is, that men of talent are tempted to other employments, more lucrative, or more congenial to their tastes. Nor are such men better off, when, instead of being thus engaged by capitalists, they attempt improvements on their own account. Having by themselves, after the devoted perseverance of months or perhaps years, effected some great improvement, they then have to apply to capitalists and offer it in a form fit for immediate application. And with what reception? The inventor will seek, and may perhaps find, capitalists disposed to act with kindness towards him, and with such an instinctive sense of their honour coinciding with their interest, as shall serve to give to their conduct the same direction. However disposed such men may be to favour inventors, they are deterred by the conviction that they cannot do so but at the risk of being robbed by others, or at the best, of being involved in unequal contests at law, where, as relates to patent causes, favour and protection are

provided for the unprincipled. But in the present state of the law of patents, and of the moral feeling induced by it; the inventor in seeking to dispose of the hard-earned fruit of his labour, is far more likely to fall into the hands of capitalists who think disgrace, in cheating a meritorious inventor, lies only in the failure. It will be sufficient to ask any man that doubts, to look into the recorded proceedings of any one of our law courts, where the rights of patentees come to be in question. In these proceedings, may be seen all the chicanery and all the effrontery of deliberate villainy, practised in open day in order to rob the meritorious inventor;—by men too, who are among the rich of this world, and who esteem themselves, and by the mass of society are esteemed, as among the honourable also. With the short-sighted policy of a silly fisherman that should boast of sparing his bait, forgetting that thereby he has lost his fish, the laws have gloried in the shame of withholding their protection from scientific and ingenious men, able, willing, and ready to serve their country by improving its manufactures. And thus it has come to pass, that men of the very highest order of minds, who have from time to time essayed improvements in manufactures, have withdrawn from the pursuit in disgust.

The *Revue Républicaine*, which is the organ of the party that made the 'Three Days of July,' and may be considered as the *facile princeps* of the French periodicals of the present time, has some remarks* on the Article on the 'Process of obtaining Patents' in the preceding Number, which seem to imply a misapprehension of the ground, on which the propriety of patents altogether was intended to be supported. This ground, assuredly does not consist in any vague inference from the right of property in an invention, or the celebrated principle of a man's power to 'do as he will with his own;' but simply in the position, that a greater sum of good to the community will arise from encouraging men to go to the expense of invention by giving them the benefit of it for seven years, than by giving the public an open right to the use of the inventions, which would be no inventions at all. If this position is disputed, it is undoubtedly a fair subject of contest. But by the settling of this and nothing else, the propriety of granting patents in the abstract must stand or fall.

* *Revue Républicaine*, Tome iv, 11^{ème} Livraison, page 203. Au Bureau de la *Revue Républicaine*, Rue du Croissant, no. 16, Paris.

ART. XI.—1. *The Mayor of Wind-gap. And Canvassing.* By the O'Hara Family.—3 vols. London; Saunders and Otley. 1835.

2. *Speech of Lord John Russell at Honiton, 17 Jan. 1835.*

THE novel and speech convey each a commentary upon the other. But on the whole it may be preferable to take the facts first, and the speech upon them afterwards. Attend to Mr. Banim's description of the thing called an Election, the egg from which are to spring our boasted liberties. There may be a portion of caricature, in consequence of the scene being laid in Ireland and among the gone-by 40s. freeholders; but no demand is made, on the strength of anything, but what the conscientious reader may know to be common to the elections within his experience.

‘The streets were thronged with Castle Wilmot freeholders hurrahing, and shouting “Warringdon for ever,”—Jim Naughten’s report of the English lord’s generosity, and of his being in “every perticklar, the thruth of a gentleman,” (in support of which assertion, the compliment of the five pound note was not forgotten,) had already secured him an overwhelming majority of the dhrivers, butchers, grocers, and butchers’ and grocers’ boys, waiters, ostlers, carmen, beggars, and such like gentry of the town—and Jim was now flying about in all directions, waving his hat, and jumping over his stick, collecting his boys, and exhorting them for the honour of God, and of their town, to be sure and break the head of every Archer, who should dare shew himself in their free, loyal, and religious streets.

‘Here might be seen groups of gentlemen, gesticulating and thumping one another’s shoulders, in their eagerness to prove, for the hundredth time, a position already admitted as incontrovertible; viz., the superior wisdom, valour, and social importance of every individual composing the party to which they belonged, and of the consequent certainty of their triumph. A little further on might be observed some member of the Roman Catholic priesthood, more quietly, but not less zealously, haranguing an attentive audience on the liberal and enlightened principles of the Right Honourable Viscount, who was proclaimed by them, and admitted by their listeners, to be an honour to England, and anticipated as a blessing to Ireland.

‘Nor were the female part of the population indifferent spectators of the preparations for the approaching struggle, which engrossed their husbands, fathers, lovers, brothers, or friends; there they were elbowing, scolding, and all but shooting whoever presumed to gainsay their fiat, that, Lord Warringdon, and none but he, should be returned for their town.

‘The ladies being among his most zealous advocates,—first, because he was not an Orangeman; and, secondly, because he was young and handsome:—the old ones might be seen hurrying to chapel to pray for him, while the young ones, sauntering up and down the square, listening to the band, or standing looking out at window, flirted for him; exhorting those already his friends, confirming the vacillating,

and endeavouring, by smiles, or poutings, to cajole, or frighten, his declared enemies,—kneeling to some, almost embracing others; and how could they do less for so handsome, so gallant a candidate, who had given a ball at the assembly-rooms, and had danced with “every girl of consequence” in the room? Besides, he had such beautiful dark eyes, and he made such an elegant bow, and another “besides,” which they did not, however, add, but which we will do for them,—“Besides, he had all the dashing young men of the county on his side!”

‘Nor were the females of lower degree less energetic in his behalf, groups of them were gathered round the shop doors, or hall doors, insisting to one another, and all of the worthier gender (*soci disant*), they could get to listen to them, “that it would be a murder outright, a mortal sin, troth it would, to disappoint such a darlin’, purty, free-spoken, free-givin’ gintleman, the frind and son-in-law to be of misther Wilmot, the Lord prosper and puerfect him!”—vol. iii. p. 177.

Then comes the scene of strife—the day of election; the bullyings, and back-slanders; the craft of the agents; the ignorance and servility of the voters.

‘The eventful morning came, and the whole town was alive at the dawn of day; crowds of partizans of all ages and ranks gathering round the committee-rooms, of the opposing candidates; electioneering agents, oratorizing, explaining, or mystifying, as suited their purpose; looking over certificates, and “making Pat Conny sinsible he was only to be Pat Conny the first time he voted, but Dennis Sleevan, the second time, in regard of poor Dennis not being convenient just then, because he was berried last week; and reminding Martin Donovan, he musn’t forget to slip a flea inside his lase, that he might swear with a safe conscience, that the life in it was still in existence,” and other trifling, though necessary, arrangements, for the proper carrying on of their employer’s interests; and voters were eating, drinking, shouting, laughing, and whirling their ferrals to give them “the raal fighting touch,” and among the noisiest of the noisy, as in duty bound, were the Castle Wilmot boys, who strove hard, by all the means in their power, to keep up the honour of “the family,” and make as much riot as possible.

“Which of you has seen or heard anything of Mc Alpine?” demanded Mr. Malony, as he entered Lord Warrington’s committee-room, his face flushed from pain and impatience.

“Still at Mount Pleasant, I suppose,” replied one of the group he addressed.

“Still at Mount Pleasant! confound him! what is he doing there?”

“Making love to Lady Mary Pemberton, I hear.”

“Making love to the devil, man!—why isn’t he here? who ever heard of a man leaving his freeholders to themselves in this way? how can he tell who they vote for when he’s not on the spot? Making love indeed! the bletherem skite of a fellow! always bothering some woman or other with his cursed poetry, or romance, and she wishing him at the devil all the while, for his pains. I bring up my men

myself, my Lord ; I take care that nobody dare meddle with a freeholder of mine, or I'd put a bullet through his head, and distrain every beast belonging to the tenant who dared even to think of voting according to his own vagaries. Making love, indeed—the numbskull !”

‘ Mr. Malony’s invective against the romantic Mr. Mc Alpine was cut short by Father John Molloy’s entrance, looking as if he were the bearer of portentous information. Lord Warrington advanced, and shook hands most cordially with “ his kind and excellent friend, Mr. Molloy.”

“ My lord, I am credibly informed that there’s a batch of Mc Alpines in town, along with Archer’s men !” and the worthy priest accompanied this startling intelligence with an ominous shake of the head.

“ Pooh ! pooh ! Father John : ’tis impossible,” Malony interrupted. “ Is it the Mc Alpine servants, who are at rack-rents, and dare not call their souls their own ? Do you think they would have the courage to vote against his orders ? not they.”

“ But, Mr. Malony, what do you say, if ’tis by his orders they are voting ?”

“ Do you suppose he wants to have cold lead lodged in his brains ?” quietly demanded, in his turn, Mr. Malony.

“ But, my dear sir, have you ascertained that Mr. Mc Alpine *has* sent down his men for Mr. Archer ?” queried the Viscount.

“ Why, my Lord, I have it on good authority that he has. A sister of Pat Sullivan’s wife (Mr. Mc Alpine’s foster-brother, you know, Mr. Malony) told Mrs. Mc Donogh’s daughter’s husband, a first cousin of her own, and nurse to Mr. Wilmot, that Mr. Mc Alpine’s agent, Mither Fahy, had sent back orders to Pat Sullivan, for all the men, them that lived by the say-side, and them that did not,—to come down by wather, unknownst, for fear would any of the Castle Wilmots murder ’em, if they come by the road ; but to take care for his life would Pat Sullivan let on, ’twas his mather that bid him.”

‘ Here “ Rascal, scoundrel, blackguard, liar, coward,” and other synonymous and equally euphonious epithets arose from all parts of the room, coupled with the name of Peter Mc Alpine of Mc Alpine castle.

“ The only way in the world is to send him a message at once,” observed Mr. Malony. “ Here, my Lord, sit down, I’ll get you a pen and ink in a minute ;—now for it !” he cried, clapping the table with the only hand he had at liberty.

“ Now for it !” echoed all the bye-standers.

“ The cannibals !” muttered the Viscount. “ But,” he added, aloud, “ before I send Mr. Mc Alpine a message, I think we should have better authority than that of foster-brothers and nurses. How can we tell whether one word of this story be true ? My respected friend here, Mr. Molloy, does not give it on his own authority, or it would, of course, be conclusive.”

“ Oh, well,—may be so,” Mr. Malony reluctantly acquiesced. “ However,” he added, “ you may as well write the letter, my Lord,

to have it ready to send when we want it, for I dare say, before the election is over, he will be playing us a trick, and then we have our challenge written, and nothing to do but to dash it off, and even if we shouldn't want it for him, we shall for somebody else, with a few alterations, you know, the same copy will serve for a dozen different people."

"Lord Warrington did not much relish the idea of an assortment of ready-made challenges, but, however, he was too prudent to object to the proposal, and in a very few minutes, a letter full of flogging, posting, and shooting, dictated by Mr Malony, and penned by his lordship, was read aloud, to the great delight and admiration of the company at large

"Do you know, I am in great hopes that you will have to fight Mc Alpine it would make you so popular with the mob for the fighting candidate has always the best chance, you know, of being the sitting member I assure you, Mr. Wilmot would not have kept the county so long, but for his handiness with the pistols He fought four men one morning before breakfast, and wounded them all,—don't you remember, O'Leary?" Mr Malony added, turning to the electioneering agent, *en chef*

"Aye, faith, Mr. Malony, but he was left for dead himself, you recollect"

"I know he was, but what does that signify?" he gained his return by it, and never would else, for the opposite party, by bribing, and tricking, and telling lies, of one kind or other, had contrived to get eight hundred a-head of us, and we had but three days left to pull up Well, my Lord, the mob got outrageous when they heard Mr. Wilmot was badly wounded, and they threatened to burn the town, if he died without being elected In all your life you never saw such a row, the women running about screeching, and clapping their hands, and swearing they'd have the lives of them that took his, the men shouting, and cursing like mad I had my skull fractured by the way, but only in a mistake, you know, the poor fellows took me for somebody else"

"Pleasant mistake!" thought his lordship

"Well, Mr Malony, and how did it all end

"Oh, as well as possible, my lord the army was called out, but the Colonel was a friend of ours, and behaved very handsomely, so we beat the other party fairly out of the town, and Mr. Wilmot was elected that very day"

"Mr Malony, I beg pardon for interrupting you," said Father John, "hadn't we better see after them Mc Alpines, they'll slip through our fingers else I was thinking of going myself into the——booth, to watch them as they come in, and know the truth at once"

"This idea met universal approbation, and accordingly, Father John hurried to the——booth, the strong hold of the Mc Alpine interest.

"A batch of the suspected freeholders had arrived before him, and a ragged, half-starved, miserable-looking creature, was now undergoing the usual interrogatives by the deputy-assessors

"Who do I wote for, is it? I wote for—for,—by my conscience, then, I can't remember the name just at this present minute. Misther Fahy! Misther Fahy! which of 'em is it you tould me to wote for?" demanded the puzzled freeholder, in a stage-whisper.

"Arche.. Hav'nt I been able to bate that into your head yet, ye omadhoun?" inquired, in his turn, Mr. Mc Alpine's confidential man of business.

"Omadhoun! Misther Fahy?" repeated the voter: "faith, an' the 'cutest boy in the county, 'ud be bothered when he's never tould two days runnin' the same thing:—one time I'm to vote for the English Lord; then I am'nt, but it's for Misther Archer I'm to wote, how are we to know what's wantin' of us at all?"

"This dialogue excited shouts of jeering laughter from the Warrington party, and cries of "Success to ye! your scholar does you credit, Misther Fahy! he's a nate boy at his A, B, C."

"Silence!" cried the deputy assessor. "Your vote, my honest man."

"Archer! why don't you spake out at onst, ye ohnshuch?" whispered Mr. Fahy, angrily, in the ear of his very stupid, and now somewhat sulky, pupil.

"Oh, its for the English lord he's goin' to vote," loudly and scoffingly laughed the Warringtons.

"By the powers! then, it isn't. I'll wote for neither of 'em;—but for my own masther, Mr. Mc Alpine, and nobody else," replied the persecuted and displeased freeholder.

"Mr. Mc Alpine is not a candidate, my honest man," replied the deputy assessor.

"Well, for Miss Kitty, then!"

"This answer was received with shouts of laughter by the Warringtons, and with muttered curses by the Archers.

"Ladies are never elected to serve in parliament, my honest man. You must, therefore, take your choice of the three candidates in question, Viscount Warrington, Mr. Fitzgerald, and Mr. Archer; and make up your mind at once, if you please, for you are stopping the poll all this time."

"Faith! an' with the blessing of God, I won't stop it any longer," and the indignant voter turned suddenly round and took to his heels.

"He was succeeded by another of the batch, who got through his lesson more creditably to himself, and Mr. Fahy.

"My blessing to ye, Phanick O'Dea!" said Father John, "how long is it sence you turned Protestant?"

"Me turn Protestan', is it, Father John! The Lord save us!" And Phanick crossed himself reverentially. "Sure I'm no Protestan', nor one belongin' to me; the heavens betwixt us an' harum!"

"If you arn't a protestant, and a bitter black one, too, how do ye come to vote for the Orange candidate, my man?"

"Avoch, Father John, sure it isn't of our own will we're votin'! didn't Pat Sullivan threaten to burn the houses over our heads, and banish us the place, if we didn't wote the way we were ordered?"

An' how would we stand the counthry, Father John, if we didn't? always in arrares of rint, you know."

"But, Phanick, didn't your masther promise the English Lord; how can he go back of that, now?"

'Phanick twisted his hat between his fingers, shifted from one leg to the other, and was silent a moment.

"It isn't for the likes of us, you know, your Reverence, to be faulting him, whatever he'd do: sure he'd sweep us off the face of the earth if we didn't do his biddin'!"

"But do ye know it is his biddin', Phanick?"

"Sure if it wasn't, would Pat Sullivan be goin' on the way he was, shrivin' to get us down, and threatnin' our lives, if we wouldn't be said by him?"

"Michelleen! Mavourneen! are ye there?" Father John cried, turning towards the crowd of Castle Wilmot freeholders and idlers, who crowded the booth.

The same little bare-legged, red-headed boy, already introduced to our readers, obeyed the summons, and, after having performed his customary *salant* of pulling forward his hair, and scraping his foot, awaited deferentially the priest's commands.

"Michelleen, be off this minute, as fast as ye can set fut to the ground, to Lord Warrington's committee-room, and——"

'And Michelleen was galloping off, when recalled by Father John.

"Come back, ye little omadhoun! is it goin' ye are without knowin' what it is ye are goin' for?" He continued,—"go to the committee-room, and tell Mr. Malony I want to spake to him immediately;—now away with ye, my man!"

'In a few minutes Michelleen re-appeared, ushering in Mr. Malony.

"Well, Father John, what is it?"

"Which of us was right about Mc Alpine? here are his men votin' for Archer, and by his orders, as I have found out by one of themselves."

"Ha! I wouldn't doubt him, the slippery rascal!" exclaimed Mr. Malony. "Where in the world did I leave the challenge?" he continued, searching his pockets. "Oh, I forgot, it is in the committee-room. Michelleen! run and tell Mr. O'Leary to get an express ready directly for Mount Pleasant, and to send him after me to Lord Warrington's committee-room. The only way to deal with such a fellow as Mc Alpine is to frighten him, Father John; or, if he is not to be frightened, shoot him like a dog."—vol. iii. p. 188.

More characteristic still are the accounts that follow, of the proceedings held towards the 'free and independent electors.'

'The answer to the hostile message arrived in due course, and was as follows:—

"MY LORD,

"You appear to me to have made an extraordinary mistake, for I am under no promise to support you, nor ever was; you must remember I always declined engaging myself. It is true that I have declared my

intention of voting for you, but I never bound myself by a distinct promise. A declaration is one thing,—a promise another. Such being the state of the case between us, I have promised to support Mr. Archer, and cannot see how, in so doing, I deserve the imputation contained in your lordship's favour, received this day, of "dishonourable conduct." However, as you have been led, as you say, to depend upon my support, I will manage thus:—I give my personal vote (as I have promised) to Mr. Archer, and my people I leave to themselves."

"I have the honour to remain, &c."

"It is all right, you see," observed the young Viscount, not sorry to be rid of a pistolling match, to his friends assembled in full divan.

"All right, my Lord! all right? any thing but that;—all wrong, you mean!" exclaimed Mr. Malony.

"Why, does he not leave his men to themselves? and is not that just what we wanted?" asked the candidate.

"Oh, the schemer! doesn't he know well they dare not go against his orders, already given? And the poltroon won't fight! you see how he backs out of that! I don't know what we are to do with him, at all," said Mr. Malony, rather despondingly.

"Never mind now, don't be one bit uneasy," interposed Father John; "but give me the letter, and I'll go among the tenants. Lave Mc Alpine with me, Mr. Malony, and I'll settle him, I promise you."

And now what had been only noise and confusion, became wild tumult, and deafening roar. The freed freeholders of the Mc Alpine estate, found their newly accorded liberty of thinking, and acting for themselves a perilous as well as puzzling privilege; beset on one side by Father John's eloquence, and the Warrington shillelagh; and on the other, by Mr. Archer's money, and fear of their master.

"Do you want to deny your religion, ye unfortunate misguided creatures?" Father John cried; "oh that ever I should live to see a man of my flock voting for an orange candidate and protestant ascendancy; and the downfall of their own ancient thue and holy religion! and when I'll be witness agin ye at the last day, that I warn'd ye, but that ye wouldn't give heed to me, how will it be with ye then, boys?"

"Avoch, Father John, bad enough! sure we'd be said by you afore the world, and why not only for the masther. But Father John? Oh! if we displace him, how will it be with us at all, and our long wake little families?"

"But don't ye see his writing, boys?—what more would ye have! sure he laves you to plaze yourselves,—doesn't he, my men?"

"His auditors however, still hesitated.

"If he shouldn't mane what he says, Father John?"

"Och, is it making a liar of your masther ye are?" queried the orator with a half laugh.

"God help us!" they groaned; "well, Father John, we'll do your bidden, and vote for the English Lord."

"Do at your peril!" would say Mr. Fahy; "do, and I'll dhrove every mother son of ye, not a baste ye have, that shan't be in the pound twenty-four hours after you give that vote."

"Ohra, murder! what's to become of us at all!" cried the poor trembling wretches.

'And then an electioneering agent for Archer would whisper, "A couple of pounds a head boys, an' the best of ating an' drinking, what do ye say to that?"

"Which way do ye wote, ye vellians of the world?" the Jim Naughten's boys, and the Castle Wilmot's would roar, whirling their "ferrals."

"For ye, for ye!" cried they, more influenced by the dread of hell-fire in prospect, and of a sound drubbing at the moment, than by love of money, or even fear of being made houseless.

"Success to ye! glory to ye! hurrah for the thruc and staunch friends of their religion; high for the Mc Alpines!" the Warringdon's shouted.

"Ye impident blackguards! ye shall pay for this,—take my word for it, every identical man o' ye!" the infuriated agent vociferated. And, perceiving some signs of vacillation of purpose in the crowd, he added:

"If there are any among ye, will stand by their masher and their cabins, and the bastes, and their children, let 'em come over to my side!"

'A few answered the appeal.

"Ah the renegades! the apostates! the vellains;" the Castle Wilmots howled, as they rushed on the small and terrified band.

'The yells and shrieks became so appalling, and there occurred so many bleeding heads and fractured fingers, that the military were called out, to restore order; and indeed, after shooting two or three, and wounding twice as many more, the military partially succeeded in this object.

'But the Mc Alpines took advantage of the general confusion, "to slip away unknown," and return quietly to their own homes, leaving the Archers and Warringdons, to dispute as to whom they by right belonged: and great was the astonishment and indignation of both parties, when they discovered the absence of the objects of their contention.'—vol. iii. pp. 201—206.

Now with this, or so much of it as may exist in any borough that is taken for an example, contrast the speech of Lord John Russell. His Lordship, who is now the Whig leader in Parliament, delivered himself to the following effect, on the occasion of a dinner given to him by his constituents at Honiton in Devonshire, on Saturday the 17th of January 1835.

'After the remarks that had been made in favour of the ballot, and the reference to the objection that it is "un-English," I think it due, in that spirit of candour which I wish always to observe towards my constituents, to explain to them my views on the subject. Hitherto I have voted against the ballot, both when out of office and during the time I was in office; I mean to continue the same course—my reasons I will presently state. But first I must declare that the objec-

tion stated by Sir Robert Peel when the question was discussed in the House of Commons, and on which he mainly relied—namely, that ballot would increase the power of the democratic branch of our Constitution—is no reason of mine. Our most ancient statutes, our greatest constitutional lawyers, our most established maxims, all lay down the position, that the people of England ought to elect their representatives “freely and indifferently.” Whether this right gives too much influence to democracy or not, I do not inquire, the right is theirs, the only question is, whether secret voting is the manner in which it ought to be exercised? My first objection is, that secret voting gives to the electors irresponsible power. All other authorities are exercised in the light of day, and subject to public opinion. Our courts of justice, our parliamentary discussions, are open to the world. In all these places does the general sense of the country at once denounce the attempt to influence the judgment, the voters alone are to exercise their power unseen and irresponsible. Let us consider in the next place how contrary this practice would be to our habits and feelings. The elector is proud of his independence, be he Whig, Tory, or Radical, he boasts of the candidate of his choice, he wears his colours, he adopts his motto, he follows his banner. Can you, or ought you, to prevent this honest and open exhibition of the free spirit of Englishmen? But we are told that this may continue for the voters who are independent, while the rest may keep their opinion a secret. Have those who thus argue considered the consequences? We should then have two classes of voters—one open, bold, and manly, the other skulking from an avowal of their sentiments, bearing about with them the load of anxious concealment, and afraid to whisper even to their nearest connections, of the dangerous secret. Will this be an improvement of our institutions? I am sensible, gentlemen—no man more so—of the progress which the question of the ballot has made during the late elections, nor will I deny that as an ultimate remedy, we may be obliged to adopt it—but let us first exhaust every other. If by the force of public opinion and public shame—if by rigid investigation and exemplary punishment we can find means to check intimidation and corruption, let these means be fully tried. Nay, more—let all hope of a remedy by these means be terminated before we agree to a change at variance with our ancient habits, inconsistent with our best institutions, and degrading to our national spirit.

First, then, for the assertion of Lord John Russell, that ‘all other authorities are exercised in the light of day, and subject to public opinion.’ That is to say, waiving for the present all question as to whether voting is a personal privilege or a public duty, Lord John asserts, that there is no other case in which a distinctly legal authority is exercised under the shelter of personal secrecy. Join issue then with his Lordship upon this; and *ex pede Herculem*.

By the 90th Article of War, as contained in the Mutiny Act

for 1834, and in substance in all the Mutiny Acts within military memory, it is directed that 'In all Trials by General Courts-martial, the Judge Advocate, or person officiating as such, shall administer to each Member the following Oath ;— and in Trials by all other Courts-martial, the same Oath shall be administered by the President to the other Members ;—and afterwards by any sworn Member to the President :

YOU shall well and truly try and determine according to the Evidence in the Matter now before you. So help you GOD.

I A. B. do swear, That I will duly administer Justice, according to the Rules and Articles for the better Government of His Majesty's Forces, and according to an Act now in force for the Punishment of Mutiny and Desertion, and other Crimes therein mentioned, without Partiality, Favour, or Affection ; and if any Doubt shall arise, which is not explained by the said Articles or Act, then according to my Conscience, the best of my Understanding, and the Custom of War in the like Cases : And I do further swear, that I will not divulge the Sentence of the Court until it shall be duly approved ; NEITHER WILL I UPON ANY ACCOUNT, AT ANY TIME WHATSOEVER, DISCLOSE OR DISCOVER THE VOTE OR OPINION OF ANY PARTICULAR MEMBER OF THE COURT-MARTIAL, unless required to give Evidence thereof, as a Witness, by a Court of Justice, or a Court-martial, in a due Course of Law.

So help me GOD.

And as soon as the said Oaths shall have been administered to the respective Members, the President of the Court shall administer to the Judge Advocate, or Person officiating as such at General Courts-martial, an Oath in the following Words :

I A. B. do swear, THAT I WILL NOT, UPON ANY ACCOUNT WHATSOEVER, DISCLOSE OR DISCOVER THE VOTE OR OPINION OF ANY PARTICULAR MEMBER OF THE COURT-MARTIAL, unless required to give Evidence thereof, as a Witness, by a Court of Justice, or a Court-martial, in a due course of Law. So help me GOD.

Here, then, are men exercising the most solemn and important of legal acts, that of sitting in judgment on the lives and fortunes of their fellow-creatures ; and though they are of the classes who of all others would most kick and bounce at the imputation of being operated upon either by fear or interest, yet the moment it becomes personally convenient to them to avoid the demand for the exercise of such valour or disinterestedness, the law at once interposes the shield of secrecy. Not a word of the "exercise of irresponsible power" when the object is to shield the men of epauléttes from inconvenience. Not a word of how contrary this practice must be to "the habits and feelings" of Captain O'Rafferty, or the horrors of bearing about with him "the load of anxious concealment, afraid to whisper even to Mrs. Captain O'Rafferty, of the dangerous secret." Not a

word of all this when a man of some having is concerned ; it is when the poor voter who has a conscience and a wish, and an overpowering rich man to put them down, represents his apprehensions, that caution becomes contemptible. *That* in the voter is rank cowardice, which in the whiskered sabie-swasher is manly prudence ; and Lord John Russell, who has probably helped to enact the *sabreurs*' indemnity twenty times over, stands forward in the furiousness of his moderation, to assure the voters that there is no other case but theirs, in which men think of exercising " power unseen and irresponsible."

But the men of war, the fire-eaters, are not the solitary objects of the legislature's care. That more pacific but not less meritorious class of officers the medical, come in for their share of the protection. It is as disagreeable for Dr. Tourniquet to be asked by his colonel, ' Pray, Sir, how did you vote upon my bad leg ?'—as for Captain O'Rafferty to be examined touching his vote when the colonel's nephew was tried for being absent without leave ; and the amiable legislature, which loves medical as well as military rank, provides for the comfort of the doctor as tenderly as of the captain. It declares, therefore, by the 88th Article of War, that ' For the Purpose of securing a Provision for Life to the Officers of Our Army who have sustained serious and permanent Injury by Wounds received in Action with an Enemy, according to the Rules and Regulations for granting Pensions to wounded Officers,—it is our Will and Pleasure, that when the State of the Officer's Wound shall be such as to require him to be inspected by a Military Medical Board, convened by Our Order through Our Secretary at War ;—such Board shall be composed of Five, and in no Case of less than Three Medical Officers, not under the Rank of a Staff or Regimental Surgeon :—The Proceedings of the Board in the Inspection of wounded Officers, and in certain Cases of Officers retiring on Full or Half Pay, shall be conducted as follows :—The senior Medical Officer shall act as President, and shall himself make, and require each Member to make, the following Declaration in Presence of the Officer whose Case is under Enquiry :—

I A. B. do declare, upon my Honour, that I will duly and impartially enquire into and give my Opinion on the Case of the Officer now before this Board, according to the true Spirit and Meaning of His Majesty's Orders and Regulations, and the Instructions issued by His Majesty's Orders on this Head. —AND I FURTHER DECLARE, UPON MY HONOUR, THAT I WILL NOT, ON ANY ACCOUNT OR AT ANY TIME, DISCLOSE OR DISCOVER MY OWN VOTE OR OPINION, OR THAT OF ANY PARTICULAR MEMBER OF THE BOARD, unless required to do so by competent Authority.

It is wonderful what good there is in history;—what a blessing in knowing a little more about the things that are, than a Whig leader. The protection for the medical men has the quality of making the protected declare, in more pointed terms than in the other case, that he will not disclose or discover ‘his own Vote or Opinion.’ And see now how this operates. Suppose some impertinent individual should think of pumping the doctor or the captain as to the nature of his vote,—the answer is ready made, ‘Do you mean, Sir, to ask me, what you know I am under an engagement not to tell’—and the necessary consequence is, no puppy ever asks. See how tender the aristocracy are of their own comfort in even the remotest contingency, and how resolutely bent on resisting the extension of anything like fairness to the people who most need protection. Their simple principle is this,—‘It is honourable for a rich man to be protected, base and cowardly for a poor.’ Why should not the voter make a declaration that he will not ‘disclose or discover his own Vote,’ by way of providing him with the means of parrying impertinent inquiry? Making as much uproar as he pleases before or after voting, is not ‘disclosing his Vote;’ for it may have been given the other way after all. The law runs beforehand with protection where the chances of intimidation are comparatively null; but lords and gentlemen jump up and are lordly and gentlemanly in their protestations against the baseness, when the object is to extend the same protection to the man who needs it. In all their intercommunications with one another, the upper classes are equally condescending on the question of their own convenience. Is there any society, political, literary, philosophical, or social, to which the so-called gentry belong, where the mode of secret voting is not provided?—and if there be any, what proportion do they bear to the number of the others? This is the best test of the excellence of the method, or at least of its recognition among intelligent persons. Do they not invariably adopt it? Is it ‘English,’ then, for the gentry to do in their societies, what it would be ‘un-English’ for other people to do in similar circumstances? Their object is the free use of the suffrage, when it is for themselves;—the *not* free use of the suffrage, when it is to be used by other people.

But there is another light in which the question may be tried. Does anybody believe the captain and the doctor give their “votes and opinions” the worse for the protection? Does anybody believe they would give them better, or more in the line of the public interest, if the protection were taken away? Has it been maintained in any quarter, that the captain would be

oftener bullied into justice than into injustice; or the doctor more frequently tempted into acting fairly by a sore leg, than into the contrary? If not, what establishes the crop of advantage to the public, which is to arise out of the voter's being bullied and tempted from all the winds of heaven? The Tory bullies him; and the Whig grieves over the possible loss of the power to do the like. The Tory tempts him; and the Whig sighs over the progress which public opinion is making towards an eventual check. He prays that all remedies may be exhausted, *except* the tried and proved one. Why does he not go about to try the effect of 'public opinion and public shame' in the army? Why does he not beg to exhaust the experiment whether 'by rigid investigation and exemplary punishment we can find means to check intimidation and corruption' in the military service, before he consents to such a rude and coarse way of giving it no chance to sprout? Simply because men take the reasonable course when they like an object, and the reasonable course when they dislike it too. The way taken in one case is as reasonable for promoting 'intimidation and corruption,' as in the other for repressing them. The whole thing is easily classified. It is part of the systematic war carried on by the rich against the poor, and which the poor must balance as they may, when they have union and leaders that shall produce the power.

It will be found that in every case where intelligent people of the wealthier classes have to protect themselves from resentments or intimidation, they resort to the ballot; they feel no 'load of anxious concealment,' nor is their intercourse with their nearest connexions at all interrupted, nor does it produce any obvious moral effect on the bearing of the gentlemen who employ it. Nobody is found less open, bold, and manly, upon other occasions. It is only when it is to be adopted to protect the poor, that it becomes odious in lordly eyes, detestable, contemptible. Lord John Russell does not bear about with him the smallest 'load of anxious concealment,' when he ballots in safety for the man among his equals he prefers for admission to his Club; it would only be if he was a poor man and a defenceless, one that the other could browbeat with impunity and 'sweep him off the face of the earth if he didn't do his bidding,'—that he would be conscious of the unmanly baseness of the proceeding.

His Lordship expresses his inclination to adopt this remedy, if by the force of public opinion and public shame, if by rigid investigation and exemplary punishment, means cannot be found to check intimidation and corruption; but first of all he asks

that these means should be fully tried.* The rigid investigation is very costly and very uncertain. It suffers the crime to be committed, which might have been prevented by suitable precautions; and, with all the pains that a committee (which, curiously enough is also a secret one) of the House of Commons can give, it is difficult to substantiate the case by proof. Why does not Lord John forswear the ballot at his club, and ask for a committee to sit upon the man who shall try to intimidate or corrupt another? Simply because he knows a more excellent way. No man leaves open the stable door, in his own case; it is for his neighbours he keeps the counsel, to look for remedy when the steed is stolen. The right of voting, in all cases, is either a personal privilege, or a public duty, or a junction of both. In as far as it may be a personal privilege, why is not the owner to have the enjoyment of it, like Lord John, without running the gauntlet of other men's bullying? In as far as it may be a public duty, why is not he to be protected in it like the captain? Captain O'Rafferty is not called 'a skulking coward, blushing at his own weakness;' because Captain O'Rafferty is of the higher orders, who make the law for their own convenience. The private soldier who should happen to be a voter in a borough, would be a 'skulking coward;' and if he did not blush it would be because blushing is not expected from the swinish multitude.

It would at least be only fair to try the feelings of Englishmen, which it is said would be outraged by the introduction of a measure so alien to them. Let them be tried. Let the inhabitants of the place decide the matter for themselves; and begin by making a trial with some place that shall offer itself to be the victim. If two-thirds of the voters, and two-thirds of the inhabitants, are for the ballot, let them have their wish. But how shall they express their wishes? By the ballot; that is to say, give each

man a card with the words **BALLOT**
NO BALLOT printed on it, and let him

run a pen through which he likes, and put the card into a box. It will give the people in such place some means of judging of the matter and the manner. But 'It is impossible;—The thing cannot be done;—It may do for small bodies and intelligent people,—but it will not do for large bodies, and people who cannot read.'—Let us see. And as there is no doubt that immense interests would be directed to discredit and disappoint any practical attempt at the ballot, it is of more importance not to leave room for failure. The speech of Lord John Russell has greatly narrowed the subject. He has denounced the anti-democratic argument urged by the present Premier. He admits that the representation is

to be the representation of the people. There remains therefore only the point of practicability to be dealt with.

The mode of balloting which experience has proved to be the most perfect, is by every voter having a printed list of the candidates, and running a pen through all but those to whom he means to confine his vote.

At the East-India House the voter takes his card into a separate room; and there, free from the observation of any one, crosses out the rejected names. At the London University and other places, the same care is not observed; the member merely turns aside, and holding his paper or card out of view, strikes out as he pleases.

These are very simple methods; but where the voters may not all be of the rank of persons whose position forces them to observe an abstinence of dishonourable curiosity towards others, and enables them to enforce the same abstinence towards themselves, further facilities for precaution should be afforded.

The mechanical means need only be a card, and a box which should turn round in the manner of a lottery-wheel.

The card should have the names of the candidates printed on it one above another, in alphabetical order. A voter who could not read, would only have to ask a friend the order of the candidates,—or for precaution, if he chuses, two or three friends,—to enable him to strike out according to his desire.

It should be a card; because there is more difficulty in substituting two cards for one, than two pieces of paper for one.

The cards should be printed and prepared by an authorized person; be all of one size, thickness, and appearance, and with a figured back like modern playing cards; and be taken by the voter out of a heap, on application to the officer in possession of the registry. If men lose their cards, or have them taken from them, new ones to be issued upon statement of the facts to the scrutineers. The necessity of completing the registry before voting, and the impossibility of raising a question afterwards on the ground of a defective registry, would be among the great benefits of the ballot.

The box should have a hole, lined with brass, which should be only wide and long enough for the admission of a single card at a time.

An appointed officer to view the back of the card, and see that two are not put in by the same person; but not to touch the card.

The box should be every now and then turned round, that the cards might be shuffled so as to preclude the possibility of tracing the voter whose card should be put into the box last.

The cards ought to be given out to the voters on the day that

intervenes between the nomination and election, at the expense of the candidates. The power of nominating new candidates on that day, to cease.

To recapitulate. The stages of voting would be thus.

1. The registry of the vote.
2. The final determination of the individual's right to vote, before the day of election.
3. The delivery of a card to the voter by the registrar.
4. The striking out the names of the rejected candidates. Leaving a name or names too many, to make the whole vote null; but the voter to be at liberty to confine his vote, as now, to as small a number of the candidates as he chuses.

5. The inserting the card in the box.

6. The turning the wheel of the box from time to time.

7. At the close, the inspection of the cards by scrutineers appointed by all the different parties. Any cards found under tokens of intended fraud, as by splitting, &c., to be declared null by the scrutineers; the circumstances to be authenticated in writing, for production before any future tribunal.

These processes are all consecutive. There is nothing complicated or impossible; nothing but what a check-taker from the theatres would perfectly arrange, if it was his interest to arrange it. If deficiencies are discovered,—as happens in the trial of most human arts, and may happen in the art of Ballot,—they may be supplied in the next experiment.

All that has been so vehemently objected to, has to the writer's own knowledge been done in an extensive parish in the City of London, that of Marylebone. A few years ago, an open vestry was established in the room of a very *select* one. It was a keen question in the parish, which contains a great number of high aristocrats and well to-do middle-class people, with a very large labouring class. The subject had enlisted as much vehemence of feeling as the election of a member of Parliament. Yet so quiet and soothing was the operation of the ballot,—so unirritating the process of voting,—that the lamest of the lame, and the feeblest of the feeble, might give their votes. The writer has seen females (for females may vote there) without fear or interruption proceed to the ballot-box, insert their paper, and proceed straightway where they listed. What has been, may be. This takes place every year, and nobody apprehends a general conflagration of the parish.

The ballot-question becomes yearly of greater importance. At every election there is a cry that the result is to show the state of public feeling; and the Tories are now making a handle of this fallacy, to aggrandize their strength. If the cry were true,

the system of representation would be faultless. That it is not true, is the very body and soul of the complaints on which the cry for ballots and short parliaments proceeds. It is very natural for public men to affect to be governed by the public voice as now expressed. It is nothing more than the avowal of their contentment with that state of things, which places them in power against the people's wish and interests.

There is one point which ought to be noticed,—the different principles on which the question of the Ballot is argued by Tory and Whig. The Tory objects to it on the score of the corruption of the people, which must be controlled by the influence of their betters; the Whig, on the score of the public spirit that it is to do away with. The Whig whose means and position place him above the reach of foul influences, may not perceive that what is sport to him is death to smaller men. The Tory pretends to nothing of this; he says plainly, 'I ought to have the power of intimidation, it is the natural influence of property. I want to know my enemy, that I may deal with him; and my friend, that I may pay the right man.' But is it not the real fact, that *both* have interests equally opposed to those of the community? Lord John Russell's outbreak against the Ballot, ought to do much towards urging the people to secure their own interests by their own efforts, and live no longer upon the charity of either of the obsolete parties who have been accustomed to hold them alternately in thrall.

ART. XII. — *Histoire de la Révolution d'Angleterre, depuis l'avènement de Charles I. jusqu'à la Restauration de Charles II.* Par M. Guizot. Première Partie. Tome I.—Paris. 1826.

SEVERAL of the Tory, or as they now chuse to call themselves, Conservative publications, have lately undertaken to enlighten the public as to certain points of resemblance between the present times and those of the Great Rebellion as they are called by the orthodox, or the Civil Wars, or perhaps the first Revolution, as they are termed by others, who as contradistinguished from the orthodox must necessarily be considered as the heterodox. A few of the points of similarity have probably been omitted by the writers of these works

What M. Guizot has said in his Preface respecting the points of resemblance and difference in the English and French Revolutions, may be applied to the times in which the English

Revolution commenced, and the present times. Under the exterior resemblances of the two epochs, great apparent differences may be perceived; but under these differences lies hid a resemblance still more profound.

The distinctive character of the Revolution that may be said to have commenced at the meeting of the Long Parliament in November 1640, as ably developed by M. Guizot in his Lectures on the General History of European Civilization, was this. The Reformation,—the Revolution in religion—had introduced in Europe, and particularly in England, emancipation from the trammels of spiritual domination, in a word, freedom of thought. The government was pure monarchy. This must needs be admitted, notwithstanding the controversy on the subject. It had become so under the Tudors; though it never went quite so far as that of France under Richelieu and Louis XIV. Here then were pure monarchy or despotism in temporal matters, and freedom of thought and discussion in spiritual matters, in presence, standing face to face, like two hostile armies waiting for the sound of the trumpet that was to hurl them upon each other. They did not wait long for the shock. First, in the field of debate, the arguments of Hyde, Colepepper, and Falkland, were crushed, or at least outvoted, by those of Elliot, Pym, and Vane; and next, on the field of battle, the proud squadrons of Rupert and Charles were annihilated by the republican regiments of Fairfax and Cromwell. What followed? The great bulk of the nation, fanatical and ignorant, were incapable of turning to advantage the victory they had gained, and fell an easy prey to the domination of the traitor chieftain, who though he fought in the name of the Lord and of Gideon, conquered, it seems, for himself. The nation got sick of this. They had only exchanged, in the words of Sir Henry Vane, a hereditary tyrant for a usurper,—for an unhereditary tyrant. So they came to the miserable conclusion,—the meanest act of ale-inspired folly in the history of mankind,—that they might as well try the hereditary man again. Only one reason can be given for the event. The Puritans had pressed a little too hard upon the revels of their neighbours; ginger was not hot in the mouth as it used to be; and it was *Ale—Ale*—that brought about the discreditable deed. It was done, however, so little to the people's satisfaction, that they were soon glad to try their hand again. It may seem strange that out of so considerable a population as that of Great Britain and Ireland, not a man could be found to answer the purpose for which the man Charles Stuart had been found unfit. Such was, nevertheless, the fact. So they sent for another speci-

men of the genus '*atavis editum regibus*,' making however, which at any rate this time showed some sense, certain conditions with the new sovereigns. Those conditions somewhat adulterated the purity of pure monarchy. The supreme power was shared in certain proportions with the Aristocracy, the Clergy, and the House of Commons; the people had scarcely a particle of it.

And was so much energy wasted—was so much labour bestowed—so much blood poured forth—so many sacrifices made in vain? Was the cause lost for ever, to which so many noble hearts had throbbed true in life, and for which they had braved death on the field or on the scaffold? All and each contributed to swell the numbers of the moral forces that shape the destiny of man. The men of the 19th century continue the same conflict, that was so notably carried on by those of the 17th; with weapons, it may be hoped, of more 'ethereal temper,' and with minds more elevated above the storms and darkness of human passions.

In the 17th century the conflict was between intellectual freedom and pure monarchy; in other words between public opinion and the despotism of *one*. In the 19th, it is between public opinion and the despotism of *a caste*. Since the former struggle, the popular cause has gained immensely in strength. If things came to a trial of physical force, it would, there is little doubt, be now determined in as many days or even hours as it then required years. But the *reges* are beginning to lose confidence in their old *ultima ratio*. Their once sovereign remedy for state diseases is sovereign no more. They must now look, as the poor honest weaver said to the villain employed by the ruling caste to lure him into crime, to "moral 'suasion." And they are well aware of that; otherwise, with the great captain, the foster-babe of victory, on their side, there is no doubt but they would have tried the bayonet.

In his speech at the Mansion-house dinner, Sir Robert Peel acknowledged that the calmness of the nation was no proof of indifference. M. Guizot has a very similar remark, respecting the apparant apathy of the nation during the period of government without parliament, that preceded the parliament of 1640. The nation was not only tranquil, but in the main prosperous, at least it was rapidly increasing in wealth. This was used as an argument by the Tories of that time, against all reform. 'The Kingdom,' they said, 'abounded with wealth, plenty, and all kind of elegancies, more than ever;' and consequently 'they did nothing but applaud the happiness of England, and called those ingratull and 'factious spirits, who complained of

the breach of *Laws and Liberties*.^{*} It is worth remarking that the present Tories use precisely the same argument against reform, and precisely with the same force and justice. The fallacy in both cases consists in using a middle term which is not distributed. At full length, their argument would stand thus.—

‘Some countries that increase in wealth, do so in consequence of being well-governed.

‘During the periods in question, England increased in wealth.

‘Therefore, during the periods in question, England was well governed.

‘Moreover, in one of those periods the government was a monarchical, in the other an oligarchical despotism. Therefore monarchical despotism is good government; and oligarchical despotism is good government. Therefore those who seek to change or reform monarchical or oligarchical despotism, are “bad subjects” and “factious brawlers.” Q. E. D.

A strong suspicion, however, of the falsity of the position above exposed, may arise from the following fact. Notwithstanding this rapidly increasing wealth of the nation, the nation does not seem to have been well enough satisfied with the government, to allow it what it deemed a fair share of the profits; in so much that Charles conceived that he lay under a necessity of helping himself. This does not look as if the people laboured under any very strong consciousness of gratitude towards their government, for the blessings of ‘health, wealth, and godliness’ which they enjoyed. In point of fact the prosperity of the nation at this time was in spite, much rather than in consequence of, its government. Notwithstanding the tax of ship-money, not only the commerce, but even the very coasts of the country were unprotected. The Barbary pirates scoured the English and even St. George’s channel. They disembarked, pillaged the villages, and carried the inhabitants into slavery. Yet such is the nature of man, that he takes advantage of every interval of comparative security to labour and accumulate property.

‘Two parties,’ says M. Guizot, ‘disputed the enjoyment of the budding despotism, the Queen and the Ministers, the Court and the Council. The Queen was surrounded on one side by the Papists, on the other by ambitious and intriguing fribbles, young courtiers who had gone to Paris to learn the secret of pleasing her. Both professed to expect from her alone, the latter their fortune, the former the triumph, or at least the freedom, of their faith. It was in her house

^{*} May. History of the Parliament, Book I. chap. ii p. 18.

that the Catholics and the emissaries of Rome discussed their most secret hopes; her favourites there displayed the ideas, the morals, the fashions, of the continental courts. Everything there was foreign, and offensive to the opinions and the habits of the country. The Queen took part in these intrigues, promised them success, and required of the King, in order, she said, to do her honour in the eyes of the people, that he should consult her on every occasion, and do nothing without her advice.—*Tom. i. p. 65.*

The most servile ministers, of the most smooth and silky natures, would have found it difficult to submit to such a capricious empire. It was not to be expected that such ministers as Laud and Strafford would go on without many rubs. For although Laud was servile enough in all conscience, and would upon occasions no doubt be as smooth and as silky as Belial himself, his temper was naturally harsh and irritable, and his disposition peevish and ascetic. Strafford again was in disposition imperious and hasty; and in manners somewhat uncourteous, and, it is even said, uncourtly. At the same time his views were too large, and his pride too lofty, to condescend to mix himself up with the domestic intrigues, or give way before the convenience of the palace. 'Whoever wishes to govern,' remarks M. Guizot, 'either despotically or legally, in the general interests of princes and people, ought to expect the hatred of all the courtiers.' So was it with both Laud and Strafford. They excited at court a hatred as violent as that with which the nation regarded them, though not so open and so honest. Charles, though he supported his ministers to a certain extent, was incapable of comprehending the nature of the difficulties they had to contend against, and therefore constantly threw obstacles in the way of their measures. It is curious in reading the letters and despatches of Strafford, to observe how his vigorous administration, and comprehensive and *pro tanto* statesman-like views, were thwarted by whims and *maiseries* worthy of the sickly imagination of a spoiled child, or a more than ordinarily weak, shallow, and capricious woman. The good or bad humour of the Queen, the habits of the court, the prerogatives of the officers of the household, appeared to Charles important considerations,—almost indeed, if not altogether, on a level in importance with the mightiest political interests of the crown. *Hinc illa lacrymæ.* It appears not improbable, that had Strafford been permitted to exercise the power as a minister which Richelieu did in France, England might have shared the fate of France. But Charles thought he had only to stamp with his foot, like the magician in an eastern tale, or say *le Roi le veut*, in order to establish despotism,

without labour, energy, or thought. Richelieu could have told him another tale.

'The tyranny of Charles,' says M. Guizot, 'if not the most cruel, was the most iniquitous and most abusive that England had ever endured. Without being able to allege in excuse any public necessity, without dazzling men's minds by any great result, to supply obscure wants, to accomplish desires without object, it contemned and offended ancient rights and new desires alike, making no account either of the laws or opinions of the country, or of the declarations and promises of the king himself, attempting at hazard all sorts of oppression, adopting at last the most rash resolves, the most illegal measures, not to secure the triumph of a coherent and formidable system, but to sustain by expedients of the day and hour a power always in difficulties. Cunning lawyers, constantly searching the old registers for some example of forgotten iniquity, laboriously exhumed the abuses of time past, and erected them into rights of the crown. Other agents, less learned but more bold, quickly converted these pretended rights into real and novel vexations, and if any remonstrance was raised against them, servile Judges were there to declare that in point of fact the crown had of old possessed such prerogatives. Was there ever a doubt of the complaisance of the Judges? Extraordinary tribunals, such as the Star Chamber, and the Court of the North, free from the trammels of the common law, were appointed in aid.'

There is an anecdote mentioned by M. Guizot, illustrative of the way in which the ministers of such a system purchased exemption from punishment, when their oppression excited more than ordinary clamour. In the affair of Lord Mountnorris, Wentworth had sent 6,000*l.* to be distributed among the principal councillors. 'I fell upon the right way,' writes Cottington to Wentworth*, 'which was to give the money to him that really could do the business, which was the king himself.'

But all this is according to the Tory notions of good government; and from such government flows national prosperity, according to the same authority.

It would scarcely be expected, considering the general advancement in knowledge and civilization which is allowed to have taken place since the time of Charles I., that so many points of resemblance should be discoverable between that period and the present, as experience demonstrates. Then, as now, the Church stood prominently forward in the contest,—to one party a strong-hold and a rallying cry, to the other a mark of attack. In 1635, exactly 200 years ago, the star of the Church of England might be said to have been in its zenith. The prin-

* Strafford's Letters and Despatches.—vol. i. p. 511.

principal offices of state were in the hands or under the control of Churchmen. Though Strafford ruled in Ireland, and exercised some influence on English councils, Laud was prime, it might be almost said sole, minister of England,—excepting always the king's foreign wife and her jesuitical confidants. For though Laud held no ostensible political office, except his seat at the Council Board, at the Great Committee of Trade and of the King's Revenue, and as one of the Commissioners for the short time the office of Lord High Treasurer was in Commission, he had the appointing of Windebank, Secretary of State, Juxon, Clerk of the Closet and afterwards Lord High Treasurer, so that he might well be said, as his biographer Heylyn said of him, to have 'the king's ear on both sides.' After the joining of the 'white sleeves with the white staff,' the clergy seemed to think that everything was then their own. They did not perhaps go quite so far as the Fifth-Monarchy-men, and proclaim that the reign of Christ upon earth was about to begin, it was enough for them to imagine, that the reign of the Church of England was commenced. They talked confidently of having 'another bishop a Secretary (Juxon was bishop of London), and a third Chancellor of the Exchequer*.' By such measures as sending bishops to the colonies and 'backing them with forces,' it was hoped that the Church of England might be rendered 'as diffused as the Church of Rome†.' These details are corroborative of the general fact, the high and palmy state of the Church of England about the year 1635.

What was the cause of this temporary triumph of Theocracy in England? M. Guizot accounts for it thus.—

'The want was felt of a corporation, which already strong in itself, had still something to expect from the crown, and which, in going shires in it, might serve as a support to absolute power. The English clergy had long been soliciting this office; they were now called to fill it.'—p. 87.

The following passage is deserving of the consideration of all classes of the community at the present hour, but especially of those who are entrusted with the responsibility of legislating on the subject.

'Emanating at its origin from the single will of the temporal sovereign, the English Church had by that lost all independence, it had no longer a divine mission, and subsisted not in its own right. Strangers to the people, who did not elect them,—separated from the pope and the universal Church, their support of old,—the bishops, the

* Strafford's Letters and Despatches.

† Heylyn's Life of Laud, pp. 276 and 369.

high clergy, were only the delegates of the prince, his head-servants; a false position for a body appointed to represent what is most independent and most elevated in man, his faith. The English Church had early felt the vice of its constitution; but its perils, and the formidable hand of Henry VIII and Elizabeth, had not allowed it to do anything towards escaping from it. Attacked at once by the Catholics and Nonconformists, as tottering in its possessions as in its doctrines, it devoted itself unreservedly to the service of the temporal power, professing its own independence, yet acknowledging the absolute supremacy of the throne, which could alone at that time save it from its enemies.—*Ib.*

When the Stuarts came to the throne, the clergy became bolder, soon finding out, as well as the people, that they had got a very different sort of masters to deal with. Every time the king paraded his prerogative, and talked of his divine right, the clergy bowed respectfully, but they soon began to slide in a word or two at times, of *their* divine right also. By way of excuse, moreover, for these pretensions with the king, they became vehement against the people, calling them 'the rude and rascal commons,' 'rascal routers,' 'raskal rabble,' and the like hard names*. When Charles I. had got embroiled with his parliament, and was looking about him for the means of 'carrying on his Majesty's government' without parliaments, the English clergy thought that the time for asserting their independence was arrived. Nor were efforts wanting on their part; efforts that raised them to the pinnacle of greatness which, as has been seen, they occupied in 1635.

But there remained one adversary to be subdued; an adversary, though the priests spoke of it with such scurril taunt, not to be despised. That adversary was the People. Laud set to work with his characteristic violence,—vigour and energy it would be called by some. He stormed, he commanded, he forbade men to speak or write anything but what he ordained, he cut off ears, he slit noses, he scourged, he set in the pillory, he branded with red-hot iron. He was not even satisfied with this. He complained after all, that he was not allowed to go far enough. [See particularly his letters to Wentworth, in Strafford's *Letters and Despatches*, vol. ii. p. 99]. There is one case of most touching hardship related by M. Guizot from Neale's *History of the Puritans*†. It exhibits in the most vivid colours the unrelenting, remorseless cruelty of religious persecution. Could the Church which perpetrated and which justified such acts, look for mercy in the day of retribution?

* See the Book of Homilies of the Church of England, Laud's *Diary*, and Heylyn's *Life of Laud passim*.

† Book ii, p. 204.

Workman, a minister of Gloucester, had maintained that ornaments and pictures in churches were a remnant of idolatry. He was thrown into prison. A short time before, the city of Gloucester had given him an annuity for life of 20*l.* sterling. The annuity was taken from him, and the city authorities were condemned to a heavy fine. When he came out of prison, Workman opened a little school. Laud ordered it to be closed. To procure himself the means of subsistence, the poor minister attempted to practise medicine. Laud interdicted this too. Workman went mad, and died.

In the world which is beyond the grave, how will the tiger pietate confront his victim?

The divine right of bishops became in a short time the official doctrine, not only of the high clergy, but of the king himself. Even the higher aristocracy began to take alarm, when they saw the first offices of the state, which they had been taught to consider as their birthright, monopolized by the priesthood, and heard it affirmed by that same priesthood, that the day would come when a simple ecclesiastic would be the proudest nobleman in the kingdom.

But whatever was the case with the higher aristocracy, who might be apt to regard the Reformation only as a political measure which had enriched them with the plunder of the Catholic hierarchy, in the middle and lower classes there existed a sincere and passionate attachment to the principles and consequences of the Reformation, and a deep hatred to everything which bore a resemblance to Popery, or brought back any recollection of it. The peculiarity, as observed by M. Guizot elsewhere [Lectures on European Civilization, Lecture xii., p. 8], of the English Reformation, was that it was the work of their kings. Royalty, Episcopacy, and Nobility divided among them the rich spoil of their predecessor the Pope, 'that Pagan, full of pride.' They then held the Reformation for completed. But the people thought differently, inasmuch as with them all the notions that made the Reformation desirable from the first, continued in full force. Accordingly the Reformation reappeared under the popular form. The same demands were made against the bishops, as had before been made against the court of Rome. They were accused of being so many popes. And here must be mentioned an interesting phenomenon, noted by M. Guizot, from which, in the fate of old Popery, modern Toryism may read its own. Every time that the general principle of religious Reform was in danger, all the sections of the reformed party, from the most orthodox reformed Bishop to the wildest Fifth-Monarchy-man that was 'above ordinances,' rallied and

fought side by side against the common enemy the ancient Church.

The affairs of Charles began to get more and more embarrassed. The trial of Hampden, though decided against him by his venal judges, increased the unpopularity of the tax of ship-money, and consequently the difficulty of raising money in that way. The Scots broke into open rebellion, marched an army into England, and set the king at defiance. In this position of affairs he sent for—the Duke?—No, Strafford,—the man whose nerve and administrative vigour, ‘talent for business,’ courage, and capacity, were the favourite theme with his party, as they have been ever since with that party’s successors, the Tories of these degenerate days. But all his courage and capacity, and all his party’s power, were unable to protect him from the vengeance of John Pym, or save his head from the block.

Strafford arrived,—determined to employ all his energy against the enemies of the crown, speaking of them with profound contempt, affirming that weakness and timidity had been the sole cause of every failure, and so confident in the firmness of the king, that he promised himself in that a support not to be shaken. He found the court agitated by obscure intrigues. The ministers were mutually accusing each other of inability or weakness. The favourites of the Queen were eager to take advantage of the general embarrassment, to push their own fortunes and destroy their rivals. The public which had seen Strafford sent for with anxiety, did not wait long before they learned that he recommended the most rigorous measures—‘a vigour beyond the law,’—and pursued him with maledictions. For those he cared as little, as a Tory minister before the Reform Bill did for the people’s petitions. As the Tory minister before the Reform Bill said, that if the people would not be quiet he must find means to make them, his predecessor Strafford made on a very similar occasion, the following memorable remark, which is best taken from the despatches of the man himself. ‘Mr Hampden is a great *Brother*, and the very genius of that nation of people leads them always to oppose as well civilly as ecclesiastically all that over authority ordains for them, but in good faith were they right served, they should be whipt home into their right wits, and much beholden they should be to any that would thoroughly take pains with them in that kind*.’ In the confidence inspired by Strafford, a parliament was resolved upon, and Strafford returned into Ireland, to obtain from the parliament there subsidies and soldiers.

* Strafford’s Letters and Despatches, vol. ii p. 138. And again p. 158.

England was astonished at the news ; it had ceased to hope for a legal Reform, and it thought of no other. But though it nourished no violent designs, the public mind was in a state of extreme soreness and irritability. The discipline—the whipping—of Laud and Strafford had not been applied in vain. Many of the most peaceably disposed citizens began to think without blame, of the strong language and intractability of former parliaments. Under the influence of such a disposition, the elections went much against the court. A House was returned, determined to redress grievances, but mainly composed of peaceable citizens, free from all party engagements, and imagining they could reform the abuses without alienating the King, and without risking the tranquillity of the country.

They were however soon undeceived. The King wished them to vote the Supplies, before they occupied themselves with the redress of grievances. Long discussions arose on this subject. The House showed itself resolved to make the grievances take precedence of the Supplies. Charles had recourse to the interference of the Lords. They voted that the Supplies ought to precede the grievances. The Commons in their turn voted, that the vote of the Peers was an attack upon their privileges, for they (the Peers) had no right to occupy themselves about subsidies till they (the Commons) had regulated them. The King said that this Parliament would be as intractable as its predecessors. He sent a message to the House, purporting, that if they would grant him twelve subsidies, payable in three years, he would engage not to continue to levy the tax of ship-money without the consent of Parliament. The sum appeared immense ; it was more, they said, than all the money in the kingdom. However the House did not wish to break with the King ; and notwithstanding their repugnance to suspend the inquiry respecting grievances, to show their loyalty they took the message into consideration. They were on the point of deciding that they would grant subsidies, without fixing the amount of them, when the Secretary of State, Sir Henry Vane (the elder), rose and said, ' that unless they admitted the whole of the message, it was not worth while deliberating, for the King would only accept what he had demanded.' The Attorney-General, Herbert, confirmed the assertions of Vane. Surprise and rage took possession of the House ; the more moderate men were struck with consternation. It was late, and the debate was adjourned till the following day. But on that day the Parliament was dissolved ; three weeks after its being called.

An hour after the dissolution, Hyde met St. John. Hyde

looked gloomy; St. John on the contrary, though naturally of a sombre visage, had a joyous air, and his eyes full of animation.

'What troubles you?' said he to Hyde. 'What,' answered Hyde, 'troubles many honest people, the dissolution so imprudent of so wise a Parliament, and which, in the present state of confusion, could alone bring us a remedy.'

'Good;' rejoined St. John, 'Before things are better they must be worse; this Parliament would never have done what is necessary.'

The same evening Charles was full of regret. A false representation, he said, had been made to him of the disposition of the House. He denied that Vane had been authorized by him to declare that he would accept nothing less than twelve subsidies. The following day he was still more uneasy, and he asked if the dissolution could not be revoked. That however was judged impossible.

Some time after this, when Strafford was with the army that was serving in the North against the Scots the allies of the English Reformers, Lords Wharton and Howard presented one of several petitions in favour of peace. Strafford had them arrested, called a council of war, and commanded that they should be shot at the head of the army as instigators of revolt. The council was silent; although Hamilton said, 'My Lord, when judgment is given, *are you sure of the soldiers?*' Strafford as if struck with a revelation, turned his head with a shudder, and made no reply.

Charles now conceived the idea of convoking at York the great council of Peers of the realm, a feudal assembly fallen into desuetude for four centuries, but which of old, in the time of the weakness of the Commons, had often shared the sovereign power. Without well knowing what this assembly was, or what was its power, there was hoped from it more regard for the King's honour; the question was asked too, if it was not possible for it to vote the Supplies by itself. Even Charles backed by such ministers as Laud and Strafford, the *beau idéal* of 'a brave and patriotic king, supported by a brave and patriotic administration,' does not appear to have conceived the idea of 'saving the people from the consequence of their own errors, by appealing to them again, if necessary, and again, for another and another House of Commons.' He adopted the more ancient and 'constitutional' mode of appealing to the Peers of the realm, and not troubling his 'poor Commons' at all; a use of the prerogative, probably quite as constitutional as the one recommended in modern times, and certainly a less expensive, as well as less vexatious and irritating one.

Charles and his 'brave and patriotic' ministers appealed to the people once, and twice, but unluckily before they could appeal the third time, they all three lost their heads. To cast back the nation's representatives in the face of the nation, again, and again, and again, till the nation thinks proper to do 'the laird's bidding,' and return to Parliament the list the Government may approve, was a height of statesmanship reserved for a more enlightened age.

But Charles having received two petitions, one from the City of London, the other from twelve Peers, praying him to call a Parliament; when the council of Peers assembled, announced to them that he was going to call a Parliament, and that he only asked their counsels to treat with the Scots, The elections proceeded throughout the country; the nation entered into them with ardour. The Court candidates were everywhere rejected. The Court could not even procure the election of Sir Thomas Gardiner, whom the King wished to have for Speaker.

This question of a Speaker, seems destined to be an initial one, in the struggles of the people against arbitrary power. In such a case, whatever may be said by his own party of the impartiality of a Speaker, there can be no doubt that he may be far from producing that impression upon their opponents. Many of them in the late instance, made almost as loud complaints, as Cromwell and others did of Hyde as Chairman of Committees. There can be no doubt from Hyde's own declaration, that it is in the power of the person in the Chair to exercise a considerable influence in shaping the course of a debate. In the earlier periods of the long Parliament, when Hyde was, according to his own words, 'the greatest chairman in the committees of the greatest moment*,' the other party had ample opportunity of knowing how much it is in the power of a Chairman to impede their business. On one occasion Cromwell 'in great fury reproached the chairman for being partial†,' and on another, Hampden said 'he would take care again how he put an enemy into the chair.' Clarendon himself acknowledged this power, by undertaking to Charles that the Bill against Episcopacy, of the committee of which he was chairman, should not be carried before the king went to Scotland‡.

Then, as now, 'the press was not idle; there was a great paper war. The advantage, though not in argument, yet in sarcasm, in irony, in calling names, in the invention of depreciatory insinua-

* Clar. Life, vol. i. p. 65. Oxford, 1817.

† Ibid. i. p. 66.

‡ Ibid. i. p. 70.

tions, in giving to a calumny the form of a piquant anecdote or a spirited story, to a lie a courtly, graceful, or ingenious air, in the art of blackening characters, in a word in all that relates to what Bentham aptly termed the 'dirt-flinging' argument, has always been with the monarchical and aristocratical, with the Court and Church party. This may be variously accounted for. It appears sufficient in this place to say, that it appears naturally characteristic of the weaker party. The Cavaliers of Charles's time did not by any means confine themselves to the courtly tone in the composition of their satires, but chanted their scorn and hatred in such strains as

March, march, blest raggamuffins!
Sing as ye go, the hymns of rejoicing!
March, march, justified ruffians!
Chosen of heaven, to glory you're rising.
Ragged and treacherous,
Lousy and lecherous,
Objects of misery, scorning and laughter,
Never, O happy race!
Magnified so was grace,
Host of the righteous! rush to the slaughter!*

And they did rush to the slaughter, with such effect as turned that scoffing into a somewhat bitter jest. However much the vulgar radical, with his harsh untuneable voice; his small band, his clothes cut by 'an ill country tailor,' and that 'hundred weight of iron' by his side which he called a sword, might be an object of contempt to the insolent courtier, the same vulgar roundhead charging at Naseby, or bringing up the 'Ironsides' who were to turn the battle on Marston Moor, was an object for very different feelings. The panther hath not changed his spots, nor the leopard his skin. The Tories of William IV.'s time are not behind their predecessors in the liberal use of foul-mouthed epithets, and representations calculated to set their adversaries in the light of low under-bred dogs. Witness the charge lately got up on the presentation of the Address. What a veritable parody on the olden time!—if the men concerned had only a little better merited the comparison.

In one of the Lectures on European Civilization which M. Guizot devotes to the English Revolution, he says that three great parties successively appeared upon the stage. The first of these he calls the party of Legal Reform; the second the party of Political Revolution; the third the party of Social Revolution. Of the first the principal heads were Clarendon,

Colepepper, Lord Capel, Lord Falkland; they held that the old laws of the country contained the means for remedying all abuses; and though they would perhaps have rather avoided the subject, yet when pressed, they maintained that there was in royalty a power superior alike to human origin and human control.

Behind these, according to M. Guizot, advanced a second party, which maintained that the ancient legal barriers had been proved to be insufficient; that therefore a great change, a Revolution, must be made, not in the form, but in the substance of the government. With this party M. Guizot says the Presbyterians were closely united, though some of the leaders of the party were not favourable to the Presbyterian organization of the church; for example, Hampden and Hollis he thinks would have preferred a moderate Episcopacy with functions merely ecclesiastical, and more liberty of conscience. From this party M. Guizot professes to distinguish those whom he designates as the Republicans properly so called, the *théoriciens*, as the *juste-milieu*-man after Louis Philippe's own heart somewhat superciliously calls them. And who are these last, or by what type shall they be known? He says they are such as 'Ludlow, Harrington, Milton, &c.,' together with the republicans by circumstance, by interest, the principal chiefs of the army, Icton, Cromwell, Lambert. To these he is pleased to add the Fifth-Monarchy-men, who while waiting for the coming of Jesus Christ, wanted to have the government of his elect; together with a considerable body of what M. Guizot calls '*libertins subalternes et rêveurs fantastiques*,' and who promised themselves, the first, universal licence, and the others, community of goods and Universal Suffrage. Now in the first place, there is an objection to this tripartite division, inasmuch as it may be shown from the evidence of no less a witness than Clarendon himself, [See particularly the conversations which he had with Martin and Fienes.—Life. vol. i. pp. 67, 68, Oxford edition 1817] that those whom M. Guizot would make out to be a sort of English Long Parliament *juste-milieu* men, in point of fact 'went the whole hog' even at the beginning of the struggle, though they dared not then publicly say so. In fact, the two last of M. Guizot's three parties, were merely the same party in different stages of its progress. This would reduce M. Guizot's division to a twofold one. The two last of his divisions being thrown together and forming but one, there might no doubt be found certain men infirm of will or of understanding, perhaps of both,—'waverers,' 'waiters on providence,' 'loose fish,' or *juste-milieu*. As the nature of the contest more completely developed

itself, the two parties became more distinctly marked, and more thoroughly severed from one another, the oscillators being compelled by the force of events to take part with one or the other. What was the result? The party of the Court went down in the death-grapple, leaving that of the nation triumphant; and the 'Commons of England,' who but a short time before had been 'his Majesty's poor Commons,' and crouched like beaten hounds at the foot of a king, now bade defiance to the world.

After twelve years of struggle, says M. Guizot, all the three parties successively appeared and failed. This is incorrect. Let it be granted however that (which is of importance now) the republican party failed. But did it fail, as M. Guizot asserts, from blindness, from fanaticism, from '*cette impossibilité de gouverner*,' in a word from incapacity or imbecility? Assuredly not. Is it thus that M. Guizot speaks of a party that produced some of the most heroic spirits, and performed some of the noblest deeds ever recorded in history; a party that did more for mankind than under such circumstances any party ever did, before or since? It failed from a cause, which while it lasts, will produce the failure of every party that attempts to govern by reason and justice rather than by the sword. It failed because the great bulk of the people were in a state of crass and brutal ignorance, that state in which good and stable government is a thing impossible. M. Guizot would seem to think it a great thing for Cromwell to succeed where they failed. Is it much for a man to govern by brute force,—to rule by the sword,—who has a victorious and veteran army at his back? Talents very inferior to Cromwell's would have sufficed for this; and even M. Guizot acknowledges that Cromwell never governed in any other way, that he never reigned in the hearts of the people of England. There is no desire to depreciate or deny the great administrative talents of Cromwell; but M. Guizot has failed in proving, that because Cromwell expelled the republicans by an armed force and ruled England by the aid of fifty thousand veteran soldiers, he was therefore a superior statesman and legislator to such men as Henry Vane. If Cromwell, and Monk, and Charles the Second's dynasty of knaves and harlots, governed where Pym and Hampden, and Vane and Milton had, as M. Guizot phrases it, fallen into an *impossibilité de gouverner*, it was because the former succeeded by means which the latter would have blushed to employ. A similar reproach, and with somewhat similar justice, was made against the *mal-adresse* of Turgot, because he did not retain his place like such ministers as Mazarin and Richelieu.

But a new scene is opening upon mankind. On that scene the same parties stand opposed to each other, that contended of yore for liberty and empire at Chalgrave and Marston, at Worcester and Naseby. And now indeed, there *have been* three parties. But here again the business has reached that stage of its course, where only two great parties can be accurately distinguished, namely of the Court and of the country, of Conservatives and Reformers, of those who have plundered and mean to keep, and those who would take it from them. But a new element has entered into the contest,—that without which good government, according to Hobbes and the French economists, could not exist,—the knowledge, by the bulk of the people, of the fundamentals of political science. The people have now a fairer field than they have ever had before from the first ‘syllable of recorded time.’ If a good use is not made of it, it will be from some most criminal *lâcheté* on the part of their leaders.

ART. XIII.—*De l'Education des Mères de familles, ou de la civilisation du genre humain par les Femmes.* Par L. Aimé-Martin.—Paris. 2 vols. 8vo. 1834.

TO do homage to the domestic virtues, to make life a more and more abundant source of blessings, and above all, to show how women may be enabled to promote social improvement, are the important purposes of the work of M. Aimé-Martin. Such purposes will be estimated highly in most countries; but in none be more sure of attention, nor more deserving of favour, than in France. The social power of women has long been greater there than elsewhere, although their influence has depended more on the graces of person, and force of character, than on correctness of conduct, or extent of intellectual attainments. The feverish interest which now pervades French society in regard to the position of women, is very remarkable. The press at this moment teems with projects of periodical and other works, devoted to their instruction and to their interest; the wildest opinions are afloat respecting their destination; and the St. Simonians, among other strange aberrations, are actually gone towards the Holy Land to discover their type of the fair sex, a new *Magna Mater*. But good is growing up in this struggle for a better state of things, in which women will probably obtain a more equitable share of respect and influence, than the prejudices of past times have permitted to them. M. Aimé-Martin would improve their intellectual

education, in order to increase their influence as domestic teachers; he would strengthen their own powers of mind, in order that they might the better form the minds and dispositions of their children. In many respects his work is calculated to promote a sober view of this interesting subject. What is special to women, is comprised in the first part of the first volume; and after it has been shown that women ought to be made capable of fulfilling a great duty as teachers in their own families, the remaining three-fourths of the work comprise an extensive view of the sources of knowledge, and the foundations of principles, by which they are to be furnished to the task.

The common error is committed throughout by M. Aimé-Martin, of considering his own proposition in regard to mothers, as the golden means of universal reform. He is so much impressed with the importance of his proposition, that he underrates and almost rejects all others; forgetting that other means cannot be neglected without putting the establishment of his own in jeopardy. Men must be influenced by various arguments, and improved in various points, before they will consent to improve mothers, so as to let them be the agents so well described in this work. The admirable chapter upon the education of the conscience of nations, proves M. Aimé-Martin to be aware of this. He greatly overrates the value of Rousseau's views; but an ample compensation is found for this error, in the elevation given to the glorious opinion of Fenelon upon the education of women.

In the 17th century, the Abbé de Fleury had claimed for women some better teaching, than was limited to the 'catechism, sewing, singing, and making a courtesy.' But the additional knowledge in which the Abbé would have had women initiated, was still too narrow.

'Poetry,' says M. Aimé-Martin, 'philosophy, history, ethics; all that can enlarge and enlighten the mind, were not to be meddled with by women. In making this wretched concession to the prejudices of the times, the Abbé de Fleury indeed exclaims, "Men deny that women are capable of high instruction; as if they had not souls like those of men; as if they had not wills to regulate, passions to subdue; or as if their duties could be discharged without instruction. Fenelon executed his mission more nobly. In his pastoral office in early life he had noticed the influence of mothers over their children, and felt the indispensable necessity that those mothers should themselves be well instructed, in order to use that influence well. This reflection produced his admirable book entitled "*Education des Filles*;" the wisest work on practical education ever yet written. The second book of the *Emile* of Rousseau is entirely founded upon the work of Fenelon, and is inferior to it."—vol. i. p. 71.

The principle upon which M. Aimé-Martin would enable
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women to discharge the duties which he vindicates, are stated in the 12th Chapter of his First Book.

'I have exhibited,' he says, 'the faults of the methods of instruction now in common use; but I propose no revolution in these methods. Education in convents, education in boarding-schools, education at home, old plans or new plans, I adopt them all, and begin my course of instruction when theirs is over.'

'A young female has left her father's house to become a wife. She becomes a mother; and then her hours of anxiety begin. She reads over and over, Fenelon, Rousseau, Madame de Beaumont, Madame Guizot, Madame de Remusat; and in the midst of her many researches, she feels instinctively, that to be the competent teacher of her child, she must begin by being herself fresh instructed. In this state of mind, the first right step is to attend less to what the child is to learn, and more to the feelings with which she ought to inspire it. Teachers enough will be found to impart learning; the mother alone can impart virtuous sentiments. A good mother then will seize upon her child's heart as her special field of activity. To be capable of this, is the great end of female education; to be capable of this they must be taken out of their present narrow circle of acquirements, and introduced at once to what makes human beings better and happier. It is a world of philosophy, of ethics, of religion that opens before them. Their mission is to lead their children reverently into this world of philosophy, of ethics, of religion.'

'Man is formed so as to have intellectual contemplation of things beyond the common world before him. From those contemplations man derives many a guide for his conduct in active life. They form the study which Socrates called the master pursuit, the important science. This is the science of the moral laws of nature, which leads to the knowledge of God.'

'This is the science which women must learn as well as men. A little while ago, I met a young female who had been remarkable for the gaiety of her disposition and manners. She was now overwhelmed by grief. She had lost her betrothed by sudden death. She besought me to lend her some books that treated of the immortality of the soul. "It is not," she said, "to solve any doubts that I have; but since he is gone, I have felt a strong desire to reflect upon that subject, and I wish to know how to think upon it correctly. How happy," she added, "are men, in being able to pursue so many studies which are their consolation in misfortune. You understand my meaning," she concluded with an effort, "what I want to understand is what I believe you call philosophy."

'Thus it is that unhappiness and death occasion wholesome reflections. They are both great teachers, and they elevate our minds to immaterial thoughts. The distressing state of solitude into which the young person felt herself plunged without relief from any intellectual resources of her own, was a strong proof of the defectiveness of female education. In our pride, we confine philosophy to colleges, and leave women incapable of consolations in which we all might so beneficially share, if

to their natural tenderness as mothers and as females, were added the stores of an improved intelligence.

‘Once the pulpit gave them its lessons; but making repentance its continual call, it attributed to the sighs of penitence more influence than to the effects of virtue. The Bossuets and Massillons aimed at stifling passions, which they should have laboured to direct. They did not teach how to live well in the world, but how to escape out of it. The priests have been all in the wrong; and continuing still in their errors, they preach to empty walls. If they would only abandon their superstitions and their doctrines, they might even yet afford high intellectual instruction, especially to women. To them especially the result of the errors of the priests is most grievous. Theological impieties banish true religion, and the neglect of true religion give us over defenceless to the vanity of our own hearts.’

M. Aimé-Martin then passes in review the whole series of moral science in its largest sense; with which he contends women ought to be made completely familiar. The faculties of the mind; instinct, reason, conscience; moral sentiments, the solaces of genius and virtue, popular feelings, error and truth, human authority, the deity, the laws of nature, the sentiment of love, the perfectibility of man, peace and war, revelation, the true doctrines of the gospel, the future; faith, hope, and charity; doctrine and morality; this is the series of high topics discussed in the work. Often the discussions run to the brink of doubts difficult to be approached with a steady eye. Often the reader is afraid that the author in his zeal for the studies discussed, has forgotten the mothers, whose right to be introduced to such studies is the principal purpose of the work. But a deep interest never ceases to be felt in his various speculations, which are announced with an air of the most perfect good faith. They conclude with the following passage, in which some opinions are to be found, which, if not absolutely new*, are too rarely maintained in Europe.

‘In the course of his work, M. Aimé-Martin had expressed a conviction, that a Mohammedan mother might appreciate his views as well as a Christian one, and he addresses both. This.

* Wolf, one of the founders of German philosophy in modern times, was expelled from Jena by the influence of bigots, for writing an able Essay upon the excellence of Chinese moral science. He was one of the few who have disregarded prejudices which for so many centuries have set a sanguinary boundary between Christians, Moslems, and nations of other creeds than ours. In a case concerning the Jews, (the Bedford Charity) Sir Samuel Romilly proved, from good legal authority, the errors of Lord Coke’s barbarous doctrine in regard to the perpetual hostility of Christians with Heathens and other sects. President Jefferson, who was a sound lawyer, proved from the Year Book and other good authorities, that the maxim in favour of the exclusiveness of Christianity as a principle of old English law, was an assumption without any foundation.


fine thought may be a hazardous anticipation. But the sentiment which justifies it, is presented in the following passage in a way that cannot be too seriously reflected upon at this moment, when the relations with Europeans of different creeds, are daily more and more intimately introduced among Mohammedans in Turkey, in Eastern Asia, in Northern Africa, and Egypt, and among the millions of India and China.

Y^e 'The few principles now established are sufficient,' says M. Aimé-Martin, 'to found the religion of mankind. The whole earth is the temple of this religion, where all worships may present themselves; where the gospel spreads forth its clear truths in the midst of the multitudinous rites, the vast variety of ceremonies, the dogmas and the creeds of a thousand nations. Unity of creed among those nations, is only an object of wild ambition, fatal to the improvement of man; it is the unity of moral conduct, that constitutes their peaceful civilization. Thus it is not a vain idea, the establishment of an universal religion; for religion is not a special form of worship, a particular dogma; it is the sincere love of God and man. If all creeds become pure by the adoption of this principle, the world adopts Jesus; Jesus, who did not come to invite mankind in all points to one creed, but to make known to them one God. "I will have mercy and not sacrifice," says the Scripture. Whoever, therefore, loves God as a father, and his fellow-man as a brother; whoever can bring his heart to bless his persecutor, and to be reconciled to his enemy; be he a follower of Mohammed, may justly call himself the disciple of Jesus. It is in this way that the Gospel is called to civilize the world. It will soften the hearts of men, and demolish their temples of stone; it will build up new opinions among nations, not violently destroy their present creeds. No sooner does its morality enter into the hearts of the barbarians, than they abolish of their own accord polygamy, the mutilation of the body, the usage of castes, slavery, tyranny, which is the contempt of man; and fanaticism, which is the ignorance of God. These abominations once gone, what stands before the heathen idols in the individual? What but a Christian.'

'This was in reality the design of Christ. Had he intended to found a particular form of religion, he would have begun, like Moses, by teaching dogmas, rites and ceremonies. On the contrary, the gospel is a moral code, not a liturgy. It contains not one word of a form of worship, reveals no mysteries. And why was this? It was because Christ did not come to found a religion of his own, but to modify all religions without distinction. Scrutinize his precepts; he never utters a word that can flatter this or that people, favour a sect, or divide nations. His doctrines, really understood, are adapted to all climates; they embrace the whole race of mankind. He condemns no creed, judges no government; but he displays his morality before the eyes of all, he invites all men to love God, and every man to love his fellow; from this single principle he anticipates the reform of all the ills that afflict humanity. Without preaching the change of any one institution existing in his time, he has in reality caused a universal change. The

example of slavery, exemplifies this truth. Jesus found man a beast of burthen in the public markets. To have declaimed against this practice directly, would have been vain. 'The practice was universal, and the universal blindness made men think it right.' How wonderful was the thing done by God in this state of the world. He is silent upon the fact of the crime; but he declares that all men are brothers, and the crime gradually disappears from among them.'

'In truth, great revolutions only spring from the appreciation of great truths. The plan of Jesus is, therefore, the only means for regenerating the world. Better principles must be maintained, without doing violence to existing prejudices which are defended by a whole people at once; and time will cause the general adoption of those better principles.'

'One word, and I have done. The barbarians of the West received dogmas before they received the improved morality; and, in consequence, the barbarians of the West remained long in their barbarism. If their destiny is at length changed, it must never be forgotten that it was the philosophical intelligence gained from the Gospel, that introduced civilization and ideas of true liberty in the West. We must profit by the lessons of experience, and from this favoured West extend the true spirit of the Gospel to the other quarters of the globe, as the steady harbinger of blessings which we enjoy from its influence.'—vol. ii. pp. 457-461. 

The book closes with the following appeal to mothers.—

'I have reached the end of my labours. I have shown that no universal agent of civilization exists, but our mothers. Nature has placed our infancy and youth in their hands. To this one and acknowledged truth, I have been the first to declare the necessity of making them, by improved education, capable of fulfilling their natural mission. The love of God and man is the basis of my system. In proportion as it prevails, national enmities will disappear; prejudices become extinguished; civilization spread itself far and wide; one great people cover the earth; and the reign of God be established. This reign of God, is the happiness of man secured by his increasing virtues; to be hastened by the watchful care of mothers over their offspring from the cradle upwards.'

'This is the mission which nature has destined to you, O mothers of mankind! If you could seize with a keen glance a few only of the miracles in your power, with what zeal would you enter upon the task that still awaits you. What kings and people are alike incapable of, you have only to wish, to accomplish. You rule the destinies of the rising generation; and may combine its various hopes in one steady progress. What I have coldly expressed with feeble pen, you may engrave deep on the hearts of a whole race. I have presented you with a faint portraiture of truths, which it depends upon your intervention to impress imperishably upon the minds of all your children. Whenever I see you surrounded in our public gardens and walks, by those troops of little children, busy in their infantine sports, my heart beats with delight in seeing them still in your hands. Let each mother, then, who thus possesses the power, only direct it to securing the true happiness of her child; and God will build up the happiness of all, with the indivi-

dual happiness thus secured. Youthful wives, tender mothers, upon you, more than upon the laws of man, depend the destinies of Europe, and the future civilization of all mankind.'—vol. ii. p. 463.

It is obvious, that this work is calculated to influence public opinion. It abounds in striking passages, and deserves to be studied by all who have at heart the best interests of society at large. Along with precepts for the instruction of mothers, there will often be found an *arrière-pensée* not very cautiously hid, in favour of new principles which will deeply affect the instruction of men.

ART. 'XIV.—1. *A Visit to Germany and the Low Countries.* By Sir Arthur Brooke Faulkner.—2 vols. 8vo. 1833.

2. *Visits and Sketches at Home and Abroad.* By Mrs. Jameson.—4 vols. 8vo. 1833.

3. *Journal of an Excursion to Antwerp.* By Captain the Honourable C. S. W.—2 vols. 12mo. 1833.

4. *Simon's Letters to his Kinsfolk.* Written chiefly from France and Belgium.—2 vols. 8vo. 1834.

5. *Belgium and Western Germany.* By Mrs. Trollope.—2 vols. 8vo. 1834.

6. *Holland and Belgium.* By Pryse L. Gordon, Esq.—2 vols. 12mo. 1834.

7. *Bubbles from the Brunnens of Nassau.*—1 vol. 8vo. 1834.

8. *Slight Reminiscences of the Rhine, Switzerland, and a corner of Italy.*—2 vols. 8vo. 1834.

9. *A Family Tour through Holland and up the Rhine.*—1 vol. 12mo.

IN D'Israeli's 'Curiosities of Literature,' there is a chapter on authors who have ruined their publishers. Some new compiler will certainly have to add the names of more than one of the above-mentioned to the list; at least if booksellers do not take warning, and put an end to the traffic in this literary crockery, the flaws and breakages in which must far outbalance the profits of what is sound.

'We met, 'twas in a crowd,'

would be a fitting song for this choir of tourists; and what a crash of contradictions have they let loose upon the public! There is nevertheless scarcely one of them that does not contain some shrewd remarks or lively sketches; and several abound in description, observation, and acuteness. But taken *en masse*;—and it is so—they must be taken in these days of wholesale production,—they are in the main but a collection of crudities,

unworthy the materials which are within every traveller's reach, and insufficient to satisfy the desire for information of the inquisitive and purchasing public. *Parva leves capiunt animos* is a good reason, but no excuse, for the frivolities of tourists. Yet after all, their abounding frivolity is less offensive than their occasional presumption. Light sketches, 'any nothings,' 'bubbles,' might be tolerated and enjoyed; and were mere amusement the end and aim of these tourists, as it is certainly very amply afforded by some of them, there would be no cause of complaint. But the profane dabbling with serious subjects, the slip-dash sacrilege which defaces the holiest topics of human interest, religious faith, mental cultivation, and political opinion,—these are the offences which excite both indignation and regret, while they demonstrate the paucity of enlarged views and generous objects, in those who having a whole harvest of knowledge within their reach, let the grain escape and garner up the chaff.

The good old breed of English travellers, who travelled for knowledge sake alone, seems to be quite extinct. Eustace, Forsyth, Russell, Hodgskin, and others of that stamp, prejudiced or plodding as they may have individually been, had still one fixed and definable purpose in view for which they laboured, and of which the public obtained the advantage such as it was. But now a professed tourist sets out from England, with no apparent plan but to make a rambling excursion and write a scrambling account of it, neither giving himself or herself time or trouble to examine into national character or political institutions, satisfied with skimming the surface of things, as if supposing that the cream of knowledge was to be found only at the top.

The books named in the title are by no means all of the same class. Nothing, in fact, can be more startling than their differences. But they form a convincing test of the proof of Montesquieu's remark, that a monotony of contrasts fatigues as much as a monotony of similitudes. Some of these volumes taken up singly, and read at long intervals from the perusal of the others, would be entertaining, and in some degree instructive on many points. But driven as they are in droves to the market, by the impatience of authors and the advance of publishers, they become huddled together like cattle in a fair, to the grievous injury of their own effect. Any country which possesses the smallest temporary political interest, is now instantly overspread with a swarm of English tourists, sketchers, visitors, and correspondents, whose chief impulse seems to be, not an anxiety as to who shall best describe, but an emula-

tion as to who can fastest write, The London booksellers are on the alert to whip up each trite and trivial production, the subject is overdone, the market overstocked, and the 'fatal facility' of Sir John Carr beaten hollow by hundreds who fall far short of his liveliness and tact.

Place aux Dames is a maxim of gallantry, and is in this instance a principle of justice; for precedence should certainly be given in point of merit to the works of Mrs. Jameson and the anonymous authoress of 'Slight Reminiscences.' There are many passages in both, of infinite grace and delicacy, of beautiful description, and genuine taste for nature both inanimate and human.

The chief portion of Mrs. Jameson's volumes is however only a reprint of the 'Diary of an Ennuyée,'—a delightful book with an affected title,—which has, it is hard to say why, only attained the honours of a Second Edition in this almost surreptitious, and certainly not very flattering re-appearance. The 'Bubbles from the Brunns' deserve the next place, from their sustained and animated style, and the flow of well-bred humour which give them such a pleasant flavour throughout. 'Simeon's Letters to his Kinsfolk,' are a melancholy proof of degeneracy in our living literature. Humour so flat, news so stale, labour so unprofitable, it would be impossible to meet with elsewhere. These volumes published in 1834, profess to give an account of the events in France in 1830, garbled from newspapers, and badly garbled; and a sketch of manners and politics in Belgium in 1832 and 1833, the result of less than a four weeks sojourn in that country in November of the former year, and a fortnight in each of the months of July, September, and October following, in all ten weeks of desultory visiting. It may be mentioned *par parenthèse*, that Mrs. Trollope did not spend half that period in Belgium, nor more than as much in Western Germany, the names of which countries figure at the top of her title-page, as if they implied that the book contained all that ought to be said in an ample description of each. The writer of 'Simeon's Letters' professes himself to be neither Whig, Tory, Radical, nor Republican. What on earth could induce such a nondescript to write what he calls, and no doubt considers, politics? How could any human being imagine himself capable of enlightening the world at the present day, by a series of rigmarole on a subject on which he admits himself to have no opinion? yet does the writer surmise that his lucubrations, a mere *réchâuffé* of newspaper anecdotes some years old, or sketches of ground as beaten as the *pavé* of Paris, 'may perhaps be instructive to those who have the moral courage to read without prejudice.'

Nearly a hundred pages of most common-place description, of a route to which the *nullum sine nomine saxum* may now be more truly applied than it ever was to Troy, leads the reader to Paris; the author's residence in which city draws forth a series of gossiping trivialities, as, for example, in speaking of the then French ministry:—

'The classification is as follows: Marshal the Duke of Dalmatia, president of the council and minister of the war department; the Duke de Broglie, a good and disinterested man, minister of foreign affairs in room of the sly Sebastiani; M. Thiers, a little, mean, cunning, Clement's-Inn-attorney-looking creature, minister of the interior; and M. Barthe lately a carbonari [*carbonaro*], Oh! Tom Paine! Oh! Sancta Maria! is charged with the department of foreign worship. The formation of such a ministry is even more startling than that which my Lord Grey had the courage to nominate in 1831, even if Mr. Hume (not David but Joseph) had been included as supernumerary, to take charge of the liturgy and Church of England.'—vol. ii. pp. 48, 49.

It is hard to imagine from what source the traveller picked up the information that 'one third of the direct and indirect revenue of Belgium is paid to the clergy,' [vol. ii. p. 297]; or that 'the church of Belgium has too much power in political and financial matters,' [*id.* 296] or that 'the commerce of Antwerp is nearly annihilated,' [vol. ii. p. 129] or that 'the principal shipowners with their ships have declined trade' [*id.* p. 134] a very foolish measure, had it been true, on the part of either shipowners or ships. But it is as wide of fact,—both as it relates to the men-merchants and the merchant-men,—as is the assertion, more than once made, of many of the trading establishments having been removed to Rotterdam, it being now well known that there has not been an instance of the kind since the Revolution, except in the case of two Dutchmen, owners of ships; although near a dozen of Belgian and German houses in the India trade have been forced by a decree of the Dutch government to form a branch of their establishment in Holland, at a double expense and serious personal inconvenience, to entitle their ships to employment in the service of the India Trading Company.

Such misrepresentations might however be pardoned, as arising from false reports, or as carrying no weight when coming from such a source as these volumes. But no excuse can be offered for the flippant opinions, repeatedly put forth in the course of the work, on a people so eminently religious as the Belgians, that 'they fear God and reverence their clergy, but love Mammon better than either.' But Simeon endeavours to redeem this, and other perhaps inconsiderate calumnies with

respect to Belgium [see vol. ii. p. 280], by giving his testimony to the general happiness and prosperity of the country, and his refutation of the exaggerated notions which are abroad, as to the supposed intolerance and despotism of the priesthood.

Mrs. Trollope is well known to the reading world as a traveller for the Absolutist firm; and she is of course prepared to encounter all the rubs incidental to the character, in either the Old world or the New. The graceful and unassuming tone of the other lady tourists whose volumes have been mentioned, brings out into painful relief the contrast afforded by the writings of Mrs. Trollope, whose pretensions to refinement, and penchant towards aristocracy, betray a vulgar taste endeavouring to be fine.

Mrs. Trollope is really unconscionable in inflicting on the public "the illustrious obscure" of her private friendships. Who is "the eloquent Mr. Moke, the author of *Hermann*"? And what is *Hermann*? Putting such questions may be arguing oneself unknown; and judging by the delight felt by the authoress in the cultivation of this and other acquaintanceships, ignorance in such cases is not bliss. But there is an occasional dash of sarcasm in Mrs. T's. panegyric, or something very like it. How can she hold up to ridicule such respectable but commonplace individuals as the M^r. Rodenbach of Brussels, by calling them "these distinguished men!" and speaking too of their "eloquence"! What lady had the misfortune to be meant in the paragraph which states that at the *soirée* at Bruges "there was singing that might have made Pasta herself look about her (but this was from [by] an English woman.)"—vol. i. p. 22. There was also a certain "Mr. C. W. a lively Englishman well known in the literary world,"—for what? Besides an incalculable number of Marquesses, Counts, Barons A, B, C, &c., well known and most unsparingly bepraised, in Mrs. T's. particular world. For the alphabet has scarcely letters enough to enumerate the many anonymous dignitaries with whom the fair tourist came in contact.

It appears that in various places on her route, Mrs. T. met with "old friends, long valued and long lost;" at Brussels and Hanover more especially. Yet not a paragraph is spared to the record of any of the visits paid to the associates of her early days, whose information on a thousand topics of continental economy might have given some value to her book. As far as social life is touched on, all her time was devoted to the great, and all her talents to the details of their "graceful and gracious kindness."—[vol. i. p. 73.] A hurried audience at the palace of a Princess [vol. i. p. 230] is minutely recorded, as well as

every snatched-up dinner at an ambassador's or a nobleman's,—those questionable compliments, which any person with the most common-place letter of introduction, or having set their name in the title-page of any kind of book, is sure of for once (and such appears to be the extent of Mrs. T's. experience). She loses no opportunity of boasting of all these admissions to high society. "We had the pleasure of dining with the British minister," (at Brussels). "We were dining with the Prince Augusted' Aremborg" (ditto). It is this Prince (since dead, as Mrs. T. says in a note), that Simeon confounds with the Duke d'Aremborg, and whom the Abbé de Pradt, a keen judge of character, designated as '*Un de ces médiocrités ambitieuses que l'on rencontre souvent dans les affaires, qui y portent les inconvénients de leurs prétentions, qui veulent toujours dîner, qui se croient nées pour la direction, &c.*' "We had the pleasure of dining with the British minister," (at Frankfort), and here, in her anxiety to add another title to her list of acquaintances, she converts into "Lady C." Mrs. Cartwright the wife of "the British minister," of whom those who have the pleasure of her acquaintance will no doubt be ready to confirm everything advanced in her honour by Mrs. T., except the title.

There certainly never was anything so agreeable as this tour of Mrs. T's. There was only one thing of a questionable kind throughout, a certain repast at the Waterloo Hotel in Ostend, "A meal, wherein supper was at odds with breakfast as to which it might be called."—[vol. 1. p. 2.] But with this exception, everything was sure of its own name, and all things perfect. "There was a very agreeable pic-nic party at Ghistelles. —[vol. 1. p. 6.] A very pleasant evening at Bruges, [*ibid.* p. 22.] at which, "We" (Mrs. T. and her friends) "fell into some of those playful exercises of wit and fancy for which the French language is so admirably adapted, where," continues Mrs. T., "every one's faculties were brought into play.

From every head

A lambent flame (of wit) arose, which gently spread

Around the brows and on the fancy fed.

"When we had laughed till we were weary, we were refreshed by wine, cakes, and the finest fruits of the season, and so ended the *souée*."—[*ibid.* p. 23.] At Brussels they "had the good fortune to make the acquaintance of many agreeable people."—[*ibid.* p. 61.] And they "Spent their evenings in very agreeable society.—[*ibid.*] At a museum they "Were joined by a very agreeable party of English."—[*ibid.* p. 67.] Mrs. T. has "Seldom been present at a more agreeable enter-

tainment than a dinner given by Mr. W. at the Restaurant of the justly celebrated Du Bos."—[*ibid*] "Nothing can be more easy and agreeable than the style of the Brussels parties."—[*ibid.*] "There was a delightful party at the table d'hôte at Godesberg."—[vol 1. p. 175] "The public gallery at Frankfort is a delightful lounge."—[289.] Mrs T. "took a delightful drive to a pretty woodland scene near the town."—[281.] In short "Was it not for the hateful practice of smoking," Mrs. T. "would have said, that everything she saw of the social manners of Germany was delightful."—[vol 1. p. 166] They met "A most agreeable party of Dutch travellers" at Kreutzberg,—[vol. 1 p. 153.] where they also "Found a lazy lounging meal very agreeable."

In short every person and every thing was agreeable, pleasant, or delightful, from "The dowager Baroness * * *" to the guide at Waterloo. This most pleasant fellow *par excellence*, asked Mrs. T. if the Duke of Wellington was not *adoré en Angleterre*."

"*Oui, mon ami, oui*, was my reply," "And if I spoke not truth, the sin rests on other heads than mine." Certainly, at least on one head, whose wearer is alone the cause of his own unpopularity. Mrs. T. has sins enough of her own, literary and political, to answer for. Ex. gr., she asserts, on the loose authority of this guide, unconfirmed by anything approaching to facts, that Napoleon at Waterloo, "Uttered his last command *saute qui peut*!"—[vol. 1. p. 80]

She says—

'No one I believe could pass a month in Belgium and converse as freely with people of all parties as I did, without becoming aware that the king of Holland still reigns in the hearts of the majority, and that any person, however illustrious, who had become the instrument of the factious demagogues employed to dismember his kingdom, could have little chance of retaining his station were the genuine wishes of the Belgians themselves alone consulted.'—vol 1 p 53.

Heaven knows from what source this outrageous absurdity is drawn; whether the guide at Waterloo, or "The eloquent Mr. Moke" is responsible for it. But it would appear that monstrosities which would choke any ordinary traveller, are not too much for the capacious swallow of the Tory Mrs. T., who sings forth the while, like Keates's nightingale, "In full-throated ease." That she was on many occasions mystified by some wag, is evident. She has been persuaded that "No enmity is expressed by the inhabitants of Antwerp against General Chassé;" and that "no people engaged in the painful labour of repairing the devastation of a siege, ever looked upon the enemy who carried

it on with so gentle and forgiving an eye.”—[vol. i. p. 44.] A forbearance which finds no parallel except in Sir John Davis’s assertion, 150 years ago, that “the Irish loved justice so well, they liked it even when it punished themselves.” Mrs. T.’s confounding the besieged with the besiegers, is scarcely worth remark.

Even the serious Germans cracked an occasional joke at Mrs. T.’s expense. How they must have stared at finding themselves guilty of quizzing the lady tourist! But phlegm itself could not resist the temptation. It appears that she read somewhere that ‘there is a spirit abroad in Germany which in the fullness of time is to bring revolution,’ that ‘massacre and rapine shall engender liberty and peace, and in a few short years all the nations of the earth are to be levelled into one vast ocean of equality.’ Mrs. T. took considerable pains to disabuse herself of this stupendous notion, and the result is her conviction that ‘far different is the state of public feeling in Germany. Ask a Prussian;’ gravely, yet with amusing *naïveté*, adds Mrs. T.

It will be seen that she is ‘excellent good at such combustions’ when she gets thoroughly into the Erceles’ vein. ‘Woe betide the politician,’ she exclaims, ‘who shall labour to enforce by law the art of reading, while he slothfully, viciously, or from party spirit, continues to advocate the unrestricted freedom of a press which fills every village-shop with blasphemy, indecency, and treason.’

The following is a more puzzling specimen of fine writing;—‘At rouge and noir, folly stakes against fortune, and though the odds are terribly against fortune, she may generally look for fair play; but when knavery makes fortune his thrall, and forces her to take the credit of all the tricks he may chuse to play, poor folly is badly off indeed.’

The female philosopher proceeds;—‘Where the smaller states have granted constitutions, and undermined the foundation of authority by signing trumpery charters concocted by a reckless set of noisy orators, the consequences have been uniformly injurious to the prosperity of the people.’

‘I venture to repeat that a revolutionary spirit is not prevalent in any part of the country through which I have travelled. That “such a spirit is abroad,” to use the fashionable phrase, is most certain;—and so is a spirit of drunkenness, and a spirit of gambling, and a spirit of robbing, and that in more countries than one.’

‘I heard much ridicule from various classes,—and decidedly not the least pointed from among the lower orders,—against the

political enterprizes and revolutionary snappings, which are continually exploding with the bustle and effect of a cracker.'

Such is the coarse, mean, and meagre style in which the holiest topics of public feeling are discussed after her few weeks ramble by this gentlewoman, ignorant of German by her own confession, and manifestly deficient even in French, witness her wonderment at the every-day phrase '*fournée de pairs*;' totally unfitted by nature, education, or opportunity, to give more than some scanty caricature sketches of manners, and quite incapable, as far as evidence goes, of comprehending national character in even its broadest exhibition. And such are fair specimens of this most feeble effort to mislead opinion in England as to the lost cause of despotism in, 'Belgium and Western Germany.'

The only things in the volume of merit or originality, are some sketches of English female vulgarity and presumption, exemplified in certain steam-boat and Eilwagen travellers. In doing these things Mrs. T. is in technical phrase 'at home.' In everything of a higher order she is verbose, uninformed, and tiresome. She has given only two volumes to the public on this occasion, and it appears that the public had a narrow escape. Mrs. T. says, 'I should write a volume on Godesberg, were I to indulge myself in speaking at length of its walks, its donkey rides, its ruins,' &c.

The work of Sir Arthur Faulkner marks him in every page an amateur author, writing for writing's sake, either not knowing or not caring for the arts of composition; a scholar, rather too much addicted to quotations; and a man of taste, but not always of the purest as far as style is concerned. He is, moreover, of decidedly liberal opinions in politics. The objects of his work are excellent; and had he entered on it with a decorous determination to be grave, he had succeeded infinitely better. "Levity is unworthy of his serious purpose, and humour does not appear to be this author's *forte*; though some of his scenes, or rather his sentences, are lightly enough thrown off. It is pleasant to be told in the Preface, that 'if the reviewer can pardon what I publish, he ought not to be wholly ungrateful for what I have burnt;' and further on, 'it is of my political creed, to believe, that as surely as a lobster turns red by boiling, a Whig grows Tory when long in power,' a truth amply exemplified during the last four years. The social, which means the unsocial, system of Holland is admirably illustrated in these pages; and many pungent anecdotes of Dutch prejudice and meanness are scattered through the book.

Sir Arthur most unsparingly exposes on many occasions the

insolent and immoral conduct of some of those anointed nuisances, whom Napoleon raised into separate sovereignty, and who are still tolerated perforce by the outraged people of Germany. But he is never urged by political bias, to unfair severity towards these royal delinquents. He is always ready to do justice to the merits which glimmer through the chinks and crannies of their characters. His graceful sympathy leads him [vol. i. p. 66] to dwell with much warmth on the sufferings of the amiable electress of Hesse, while he vigorously lays the lash on her husband. It is to this shame-branded elector that Mrs. Trollope is so indulgent, as to decline entering on 'the gossip of Cassel,' because, forsooth it relates to 'private matters.'

Mrs. Trollope and Sir Arthur Faulkner are directly at issue respecting the popularity or unpopularity of the King of Prussia in the Rhenish provinces. The high-principled and plain-spoken Englishman giving, of course, the public opinion; the lady stating the notions of Count A., Baron B., Madame de C., or the other noble and anonymous authorities whom she is proud of having sitten beside at the *tables d'hôte* of Aix or Wisbaden. The fact as regards the King of Prussia is, that he is personally popular, politically unpopular;—considered in Prussia proper, as a patriotic hereditary ruler, in his Rhenish provinces as a conqueror; in neither as a tyrant, but in both as a man who has forfeited his kingly promise to grant a Constitution,—a heinous offence, which his subjects hope to see him yet voluntarily expiate. During the lifetime of Frederick William, things will most probably remain as they are. The accession of his son must be the signal for the establishment of constitutional freedom throughout Prussia, and its realization in the various small states, where it is now a mere mockery.

Almost all Sir Arthur Faulkner's speculations on Belgian politics, written three years ago, have turned out to be mistaken ones. Belgian independence, in spite of his fears and the wishes of less liberal observers, has, day by day, fixed itself more firmly in the European system, and the conduct of King Leopold has gradually gained him the esteem and attachment of the nation he governs with such praiseworthy moderation. It is not easy to comprehend the motives which led to such a blemish in Sir Arthur Faulkner's book, as the disparaging tone which every-where mingles with his apparent wholesale approval of Leopold's character and conduct,—like drops of vinegar on a broad surface of oil. However conscientious the author might have been in his sketches of this monarch, all who are competent to judge of the portrait will exclaim *multum*

abludit imago. And if Sir Arthur meant his caricature for pleasantry, he of all men must excuse another short quotation from his favourite Horace, *non est jocus esse malignum*. Sir Arthur could write a much better book, and the reading world will gladly hail his re-appearance in print.

Mr. Pryse Gordon's is a well intended, and, in some points, a useful publication, the result of his experience as an old resident in Belgium. It will be a good guide for families proposing to reside in that country, on many homely but indispensable topics of house-keeping economy, and the tone and bearing of society in Brussels. The political portion is happily short, and the author gives it at second-hand. Mr. Gordon and his informant are thorough liberals, a little prejudiced perhaps; but who could be quite impartial, under the exciting events of the last four years?

The Rhine, Belgium, and Western Germany are utterly exhausted as topics of merely superficial remark or fanciful description. The numerous well-written guide-books, and the fictions of writers more capable than any of those whose productions are the subject of this notice, have done enough, or more than enough, for mere description or amusement, connected with the fertile region of romance and picturesqueness. And the works of Cousin, Russel, and more particularly that of the American traveller Dwight, have given the details of almost all that can be, certainly of all that needs be, known on the management of public education in Germany.

As to the intricacies of German politics, the state of manners, of domestic life, the various shades of public opinion, and all the substantial materials for knowledge connected with the literary, religious, and social condition of the millions composing the population of the Germanic confederation, England is still in comparative ignorance.

ART. XV.—*Emancipation des Esclaves aux Colonies Françaises. Mémoire présenté au Gouvernement, par M. le Marquis de Sainte-Croix, auteur de la Statistique de la Martinique.*—Paris: Louis Rosier. 1835.

A SOCIETY presided over by the Duke de Broglie, late minister of Foreign Affairs, has been formed in Paris for the Abolition of Slavery. Messrs. Passy and Odillon Barrot were appointed vice-presidents; and Messrs. Alexandre Delaunay and Isambert, secretaries.

Besides the above, the following are the standing members, Messrs. Berenger, Derjobert, De Golbéry, Lacrosse, George

Lafayette, Lamartine, Laroche-foucault-Liancourt, Marquis De Moins, Rémusat, Roger, De Sade, Salverte, De Tracy, deputies, and Messrs Beville, De Gerando, Lamé de Villevêque, Dubrones Lutteroth, De Montiol, Admiral Verhuel, and the Marquis de Sainte-Croix, the writer of the memoir to the government of which the analysis is given.

The principal object proposed by M. de Sainte-Croix in his memoir, and which he supports before the Commission, is to show that the bill for the Abolition of Slavery passed by the British Parliament in 1833, and which has since been put into execution, ought to compel the French government, as a duty, promptly to adopt similar and efficient measures towards the negro slaves in the French colonies, and this for the general interest and honour, both of France and of the planters themselves. The system of freedom predominates now throughout the Gulf of Mexico, both on the continent and in the neighbouring islands the measures had long since been adopted which have lately been introduced by the bill of the British Parliament, and it would be ridiculous for a moment to suppose that the French slaves will retain their present political situation, having before them and within so short a distance, examples of this kind. The author foresees the obstacles which will be opposed to the change.

‘In the Caribbee Islands,’ he says, ‘the partisans of the ancient and absurd colonial system, will be vociferous in their ejaculations of despair at the loss of the arbitrary power of which they have been so long in possession. They pretend to say, that they will by fictitious underplots, ruin in our colonies the salutary effects of the Emancipation of the Slaves, and by acts similar to those which have lately taken place at Grand Anse in Martinique, carry on as long as possible the present system by plots and bloodshed, throwing the counterfeit culpability on the men of colour and the slaves, while the colonists, the foolish provocators, will bring down on their own heads the vengeance of Spartacus.’

‘France, after the example given by England, is deeply interested in preventing any collision which might arise from the new ideas of emancipation; and the government would be highly culpable if it were to remain passive and immovable in the midst of the great movement about to take place in the Caribbee Isles, where force might take the place of the law, and public commotion carried to the utmost pitch, might produce the most frightful catastrophe, which ultimately would fall entirely on the French nation itself, by depriving its maritime towns of the commercial advantages which they derive from the colonies.’

‘Several eminent writers have boldly called the attention of government and the Chambers, to the important question of the ameliorations

to be effected in the interior management of the habitations of the colonial slaves; but instead of being listened to, they have been exposed to clamour and persecution, accused of exciting to insurrection, while they were merely expressing the progressive method to be adopted in gradually attaining the destruction of the present abusive colonial system.'

After several general considerations, the author points out from whence the changes must proceed in the first instance, and to this effect gives an exact account of the French colonial slaves, founded on data collected by M. de Sainte-Croix himself on the spot as an extensive land-holder in the colonial possessions. The following are among his observations.

'Subjected to the caprice of their rulers, the slaves in their actual state neither enjoy the present, which is not their own, nor the future which belongs to them still less. They are merely instruments; every moment of their time is counted; and if they feel an inclination to rest themselves from the painful labours to which fate has condemned them, they are forced back by severe and inhuman punishment. The abuses of the laws in this respect are truly afflicting, and the slaves have no redress to expect, for the extreme and illegal severity to which they are too frequently exposed.'

'The hours of toil, according to the species of work peculiar to the establishment to which the slaves belong, are fixed at from eleven to fifteen hours per day, and frequently more in the sugar manufactories, as the demand may require; and in these factories, although such important modifications in this branch of industry have been effected in France, the arduous labours of the slaves have by no means been decreased, either in the boiling-houses, or in the conveyance of the boiled sugar from the boiling-houses to the drying-houses*, which could so easily be done, or in the management of the sugar in the draining-houses†. The smallest labour is done by the hand, and follows the slow routine traced by our fathers, who were so much behind in this branch of industry.'

'The food allowed the slaves is neither sufficient nor regular. It varies according to the plate, and the pecuniary situation of the proprietor with regard to his overseer. The habitations distant from the principal towns ought to receive two pots and a half of Yucca-root flour, and three pounds of cod-fish per week, which allowance I consider far from being sufficient.'

'The ordonnance of 1685 regulates the rations thus; but the

* *Cases à Bagasse.*

† *La Purgerie*; the place where the sugar is deposited in order that it may be drained, and the syrup run off.

master's will is a law, and most frequently each slave is allowed only three pounds of cod-fish without the Yucca-root flour. The nearer the habitations are to the towns, the less food the slaves receive, and when the settlement is near enough to the towns to enable the slaves, during the hours the law grants them for rest, to collect herbs and carry them to market, or employ themselves otherwise according to their industry, their food, contrary to the ordonnances, is withdrawn, and they are allowed instead, a day, or half a day, every Saturday, to work to procure the necessaries of life.'

'The usual supply of clothing consists of two changes of coarse packing-cloth, and frequently they receive nothing.'

'Their residence consists of a shed or cottage, completely open, to the weather, and particularly to the winter or rainy season. These cottages, are thatched with cane. A plank is frequently used for a bed, and the interior contains no other article of furniture.'

'The accommodation in the hospitals is bad and scanty; rest is the only remedy the slaves can depend upon; but great care is taken that they do not get accustomed to a life of idleness and tranquillity.'

'The treatment they receive at the settlements, differs according to the disposition of their masters. I shall pass over the declarations contained in the various works on this subject, and merely notice those facts which gave rise to legal proceedings, but without substantial results, for instance, the case of Som-mabert at Guadaloupe*; the case of Mailet at Martinique†; that of Gabriel, 16 April 1834.

'By perusing the numbers of the Journal referred to, a just idea will be formed of the happiness the slaves enjoy, as connected with the treatment they experience from their masters.

'With respect to the future prospects of the slaves, they have never been thought of,—no provision for them has ever been made. If it so happens that a slave attains old age, (which is very rarely the case), or becomes infirm, he is provided for under an *ajoussa*, a very indifferent species of hut, and appointed to the care of a banana or cane plantation; and there he is suffered to vegetate under the shade of this roof, until the period when death bids the master of one of his servants become unable to contribute to his interests.

'I have as yet only spoken of the natural life of the slaves; what relates to their morals I have purposely omitted. The

* See the Gazette des Tribunaux, 11 Decembre, 1827

† See the Gazette des Tribunaux, 12 Decembre, 1828.

slave possesses nothing, not even his own offspring, who are included in the fate of the mother. His affections are continually blighted. If he possesses the simple ideas which nature has given to all hearts, he must lament the situation in which fate has placed him, in fear of being deprived of his wife and children, which are not his own, and of which, according to the laws of slavery, he is not allowed to be the natural guardian. For at least thirty years past, no amelioration has been introduced by law in our colonies for the interior comforts of slaves, nor the superintendence of the settlements; all the measures proposed remain in expectation.*

The second Chapter of M. de Saint Croix's work treats of the precautions to be taken in the emancipation of slaves. The first measure essentially necessary, will be to make an exact review of the negro slaves contained in each settlement, to ascertain their actual presence, their name, their age, and capacity as to labour, in order to establish the method of liquidation to be adopted to indemnify the proprietors. Children who have not completed their fifth year, not to appear at all in the accounts of indemnity. The old and infirm must, of course, not be included in this account, and must be charged on the colony, to be taken care of in public establishments. The author's plan to cover the expenses these will incur, is to put an extra tax on colonial produce of every kind, on being entered at the Custom-house*.

The author proposes, that on granting freedom to the slaves, every kind of monopoly of colonial produce be done away with, and that the ports be open to all speculations, with a view of ensuring to France an ample supply of those productions, and to prevent there ever being a scarcity of them. France, so rich in articles of industry, would, in this event, be enabled to make exchanges which would never fail to be in her favour, an advantage of which she is in part deprived in the present day by monopoly. The destroying this monopoly will have the advantage of lowering the prices of these products, and consequently of increasing the demand for them, and also of augmenting the revenue. The author is of opinion, that all

* It will be seen in the work of M. de Montvéran entitled *Essai de Statistique raisonnée, sur les Colonies Européennes des Tropiques*, Appendix Document No. 16, on the population of the French colonies, that the total number of slaves is 270,130, from which must be deducted 75,989, aged children, or sick; leaving 194,141 slaves, which at the rate of 1,500 francs per head, makes a total sum of 405,195,000 francs, of which the interest at 5 per cent is 21,039,000 francs. But M. de Ste. Croix exaggerates in fixing the value of each slave at 1,500 francs, or 60l. British.

classes of French proprietors ought not to be made liable for the indemnity due for the emancipation of slaves, but that this indemnity ought more particularly to be levied on the consumers of colonial produce of every description; and this the more justly, as these products being for the greater part articles of luxury, will only fall on the more opulent classes, who are least likely to be affected by them*.

The third chapter explains the different clauses of the English Bill, and shows that in several respects they are totally inapplicable to the French colonies. The latter are without those magisterial officers known in England under the name of registrars, and whose important functions are to defend the rights of slaves; those clauses also which relate to apprentices, would be highly dangerous if adopted in the French colonies, and a considerable armed force would be requisite to ensure their execution, which, being to be paid for by the nation, and not out of the pecuniary resources of the colonies, would in the long run occasion such a loss of men, and so disproportionate an expense, as would be equivalent in every respect to a new conquest.

As a remedy to these inconveniences, the Author proposes, in his fourth Chapter, the following modifications on the bill, previous to the introduction of emancipation in the French colonies.

First. Every slave of either sex, and registered on any settlement, must present himself or herself in person, after the promulgation of the law on the emancipation of slaves, before the designated and competent authority (the justice of the peace of the district), who will furnish him or her, as a title-deed, with an extract of the last muster-roll for the year, of the settlement in which he or she is entered, which extract will contain the name of the person, and the settlement to which he

* By Table 18 of the same work by M. de Montveran, the duties on colonial productions amounted in 1831 to as follows:

	Kilogrammes.	Francs.
Sugar,	87,915,770	52,749,462
Coffee,	2,119,016	1,119,286
Cocoa,	168,315	116,442
Cotton,	218,255	175,148
Spices, Cloves,	236,967	2,569,670
Dye stuff (Roucou)	82,122	164,244
Indigo,	13,036	130,360
Gum,	667,910	947,836
Wax,	12,898	25,796
Wood of all kinds	1,384,889	346,242

The total amount of Custom Duties is. 58,374,486

By adding the Duties received on the entry of Foreign Colonial Produce, the total amount will exceed seventy millions of francs.

or she severally belongs, his or her place of birth, name and age, and exact value, as stated by the authority that shall have made the legal estimate.

Secondly. If the slave be legally married, this shall also be stated in his title-deed, as also the name and age of his wife, the place of her birth, and the price at which she shall have been valued ; also the name, age, and price of such of their children as have completed their fifth year.

Thirdly. This title-deed to be signed by three different persons, the master of the slave, the slave himself, and the justice of the peace. Where the slave does not know how to sign, he is to make a mark to the deed, in the presence of two witnesses.

Fourthly.—There will be three copies of the deed ; one to be delivered to the former master of the slave, a second to be placed in the hands of the slave himself, and the third to be retained by the justice of the peace and deposited by him among the archives of the Colony. These copies to be read over, and signed by the parties and the justice of the peace.

If any difficulties should arise, the deed deposited among the archives, of which an extract in due form would be delivered, should be submitted to the Tribunal.

Fifthly.—If the slave had children by a woman who was not his lawful wife, he would have no authority over her nor such children, unless he made his marriage with her legal, if otherwise, the children would follow the fate of their mother.

Sixthly.—The freed slave, being in possession of this title deed, will be obliged to declare in the presence of the justice of the peace within the shortest delay (not specified), the new arrangement which he shall have made with his master, or whomsoever he shall have chosen, as also the engagement in writing which the master has contracted with him ; and in the engagement will be specified the conditions on which he agrees to work, the number of hours he is to be employed, the amount of his daily wages &c. &c., and likewise the pecuniary penalties he submits to in case of a breach of this engagement.

Seventhly.—All the above-mentioned engagements to be written in triplicate, one copy to be attached to the title deed of the individual, another to be placed among the archives, and the third signed by the justice of the peace.

Eighthly.—In the event of contestation between the parties, a legalized copy of the title deposited in the archives to be submitted to the Tribunals as good and valid.

Ninthly.—Fathers and mothers when freed, can, according to the rights of the code, negotiate, the husband for the wife and

children, but only up to the age of seventeen for the boys and sixteen for the girls.

Tenthly.—Mothers can treat for the work of their children up to that age only, in the event of the demise of the fathers, or of his not having recognized them according to law.

Eleventhly.—The justice of peace of the district will be obliged to witness the arrangements contracted by slaves, as their guardian. He will also treat with the master for, and in the name of, those slaves who may be without family or parents; in this case he will call in two witnesses. The acts will be drawn up in three copies, which will be disposed of as stated in the foregoing articles.

Twelfthly.—No act relating to money transactions passed between a free man of whatever colour he may be, and a freed slave, will be valid in law till [number not specified] months after the promulgation of the law of emancipation, unless such act be signed by the contracting parties in presence of the justice of peace, and the same be countersigned by the said justice of peace as the slave's guardian.

Thirteenthly.—Free slaves of either sex will take the following titles, according to the species of work they have been brought up to, or their talents; but not until they have attained their majority, which for males is seventeen, and for females sixteen years of age. At seventeen and sixteen, *master* [or *mistress*] workman [or workwoman], labourer, cooper, carpenter &c. &c. Before seventeen and sixteen, *apprentice*-labourer, refiner, &c. &c.

Fourteenthly.—The right of inflicting corporal punishment is taken from the masters and given to the magistrates, the guardians of the slaves.

Fifteenthly.—No corporal punishment can be inflicted by these magistrates unless by judgment; a *procès verbal* of the execution of such punishment to be thereupon drawn up in the presence of witnesses.

Sixteenthly.—All contestations present and to come shall be decided by the Tribunals on sight of the documents; and the Procureur du Roi shall appear to prosecute as in cases of minors.

In the fifth and last chapter of his work, M. de Sainte-Croix explains his motives in proposing the foregoing clauses. He also explains why he fixes the age of majority of the slaves at seventeen for males and sixteen for females. The natives of the colonies are more robust and manly at seventeen, than Europeans at one and twenty. It is well known what an extraordinary extension the heat of these climates gives to the corporeal faculties of man. At seventeen the human species

are at their full growth. It is not extraordinary for females to become mothers at twelve and fourteen.

As a last effort in favour of emancipation, which not only in the Colonies but also in France meets with many obstacles, M. de Sainte-Croix makes another appeal to the philanthropy and the interests of his countrymen; and in his observations criticizes the limited extent of the English Parliamentary Bill, and proposes a more widened emancipation to the French.

‘To suffer the French colonies,’ says the author, ‘to remain under the yoke of the present laws, would be like abandoning them to their fate in the desert, and to destruction in the midst of an ocean of liberty.’

‘The plan of allowing those who govern the colonies in the name of the nation, and who frequently have been promoted to that eminent station in consequence of their ardent zeal for the cause of liberty, to enter those colonies with a devoted respect for that servility of which they cursed the existence in France, is the most false and absurd system.

‘This system, if not guarded against, will be productive of the most pernicious results, and may ultimately lead to speedy destruction.’

‘It must not be supposed that brute force will retain the colonies under the yoke of slavery under which they are now groaning. This would indeed be recommencing a conquest, painful both by the number of men it would employ and of whom the loss would be considerable, and by the immense capital their maintenance would absorb. The loss of men in the different regiments garrisoned at Martinique and Guadaloupe, has been calculated to amount to from twenty-five to thirty per cent, and this loss is still greater in the years when the yellow fever is most prevalent.’

‘To suppose that such measures as these, would arrest the actual state of things in their rapid progress to destruction, that it would be possible to form the opinion of slaves so as to lead them gradually, step by step, and without peril to the law of emancipation, seems to me alike impossible. Can you in reality believe this, all you who have followed the course of our Revolution, who have witnessed all its powerfully striking events, you who are acquainted with the hearts of the human species, and who have perhaps heard of the sun of these climates, and of the violent passions which there predominate?’

‘Consider moreover the perplexing difficulties produced by the English Bill, in having placed the slaves in a kind of medium, the situation of an apprentice for instance, which is neither one thing nor the other, neither full liberty nor entire slavery; a position which they cannot bring themselves to comprehend, and which certainly tends to aggravate that of the colonial proprietor.

‘The colonies have already foreseen the contest, and the numberless difficulties which were to arise between the apprentices and their masters. These led the colonists of Antigua and Bermuda to the

following resolutions: "After having been fully convinced by a fair investigation that it is proper that the slaves should be allowed immediately to enjoy all the advantages of freedom, it is our will that from the first day of August 1834, they be granted freedom in the Island of Bermuda, where the clauses in the Bill relative to apprenticeships shall be null and void."

'If we compare the tranquillity these two colonies enjoy, with the effervescence in the others, and which will last until emancipation is completely effected, it will not be difficult to form our judgment.

'It is natural to conceive that men for whom the laws have prepared a road to freedom, will run eagerly to the desired object; that they will seek every means in their power to conquer the obstacles these laws present to their emancipation. How truly distressing will then be the situation of Government and the proprietors, with regard to the vast numbers which will have been set in motion! Most certainly it will be better to make them understand at once the pecuniary efforts made by the nation for their liberty, and this by showing them free labour as the surest means of alleviating their misery.

'At the period when Esop was just enfranchised, a Phrygian, the owner of many slaves, and in great anxiety relative to his future prospects, went to consult the great oracle at Delphos.—"Have the lamentations of thy slaves never reached thine ears?" replied the oracle.—"I never stooped my attention to listen to them," answered the Phrygian. "Well then, replied the oracle, take care that thy scorning them do not increase their discontent. Pity then misfortune, be just, and learn, Phrygian, that thyself a slave to the will of the gods, if in their extreme goodness they have given thee power and liberty, it is not to make abuse of them in thy conduct towards thy kind." Having despised the wise counsels of the Oracle, a short time afterwards the slaves were free, and the Phrygian in fetters.'

The memoir presented by M. de Sainte-Croix to the Government, and which he addressed at the same time to the public, has been received, at least by the public, with loud approbation. The Parisian and French Provincial Journals have expressed a firm hope, that it will contribute to make the colonists feel the duties of human fraternity; that it will assist in emancipating the unfortunate Africans whom prejudice has condemned to slavery, and whose reason is designedly kept in a state of brutal stupor; that it will prepare the French legislature to adopt proper measures, and to guard against conflicts which would threaten the colonists and their settlements with destruction.

The liberal Opposition journals, fearing the ill will of the Cabinet of the Tuileries, have thought it necessary to defend the Society for the Abolition of Slavery, against the Law of Associations, which might certainly be applied to it, and thus smother in its infancy so useful a reform.

'It was reported,' says the *Courier Français* of the 7th of February, 'that this Society, which is not sanctioned by Government, might be prosecuted in virtue of the absurd Law against Associations. This report is highly injurious to the principles of the government, which would surely never sanction a measure so ridiculous. The objects of the Society are evident, its prospectus is expressive of the purest morals, of their respect for order, and love of liberty. It would be a strange thing for the ministry to ask the Chamber to be authorized to indict Messrs. Odillon Barrot, Salverte, Lamartine, De Tracy, Delaborde aide-de camp to the king, Passy, Isambert, Berenger, De Sade, Remusat. If anything of this kind should take place, the ministers ought to be impeached, and civil interdiction pronounced against them for downright folly.'

Observe the perplexing situation the French ministers are placed in by this law. If their authorization is asked, they cannot grant it, for fear of wounding the prejudices of the colonies; and if they do not grant it, a Society, which carries with it the respect of foreign countries and the admiration even of the Holy Alliance, must not be formed in France. This Law against Associations is so completely contrary to common sense, and so wounding to the feelings of honest men, that it must ultimately be abolished for want of judges to apply it.

The Chamber of Deputies has of late devoted much of its time in Committees to the question of slavery, which will very shortly be the subject of public debate on the occasion of a bill presented by the Minister of Marine, for obtaining an increase of troops for the colonies in consequence of the danger to which the latter have been exposed since the abolition of slavery has been proclaimed in the British colonies. It will be perceived, that as yet, the Cabinet of the Tuileries has had recourse to force, rather than to reform, in order to preserve the French possessions abroad. In five bureaux of the Chamber of Deputies, the Minister, or the functionaries belonging to the Marine Department, have been called upon to explain, why instead of joining in holding out philanthropic promises, the language of the planters had been adopted; and the bureaux at the same time complained, that coercive and threatening measures were spoken of, instead of using conciliating language. The Minister was also required to explain the intention of the Cabinet relative to the general question, and to the future condition of the colonies.

M. de Rigny, on being urgently pressed by the 5th Bureau, replied in very evasive terms, and pleaded the enormous amount of the indemnity which it would be necessary to grant. M. Isambert in answer to the Minister, among other things said,

that at Martinique the value of slaves had fallen to the average price of 300 francs. A Deputy of one of the bureaux was understood to say, that the slaves were so completely happy, that freedom would prove quite a burthen to them, and that they would most decidedly decline its acceptance; but if this be the case, somebody replied, why do the colonial councils and governors demand a double supply of troops? Two Deputies gave it as their opinion, that it would be better to add to the naval stations than to the garrisons. Several advised the re-establishment of the local militia in those places where it has been disbanded, the colonial climate being destructive to French soldiers. Does France, it was urged, owe fresh sacrifices and her best blood to these colonies, which already cost her annually upwards of 30 millions of francs, and make her pay for sugar at double the price it sells for in Switzerland? Can France possibly remain behind England; and since it is a title of glory for the statesmen of the latter country to have decreed emancipation, will the French Parliament suppress sentiments of economy, good policy, religion, and humanity, and rivet the fetters of more than 250,000 unfortunate creatures?

After the debate, a Commission was appointed by the bureaux to report on the question to the Chamber. The ministers seem only unfavourably disposed towards emancipation; they are afraid that by granting freedom to French slaves, they will be compelled to grant more extensive privileges to the citizens belonging to other parts of the French dominions,—and who knows but such concession may be displeasing to the Holy Alliance? Besides, they fear that the sudden change from slavery to liberty, may be productive of certain events which by giving alarm to Louis Philippe, may ultimately deprive them of their *portefeuilles*. Fortunately France is not to be confounded with her ministers.

ART. XVI.—*Specimens of the Table-Talk of S. T. Coleridge.*—London, 2 vols. 12mo.

THERE is something in the circumstances of an individual who, after engaging in early life in the popular cause, has come over with a sharp turn to the opposite array, exceedingly inimical to the preservation of sound judgment and good discretion in his after course. It is in fact very difficult for him to be a dangerous enemy; because he is almost sure to attempt to be too dangerous. The mere fact of the renegation, at least in

what the Scottish tongue calls the 'ordinar' of cases, is proof of a soft place existing somewhere, either before, or after, or at the time of turning; and the inherent weakness is certain to be sorely tried, by the ill-judged flatteries of new associates, who invariably fall into the snare of considering their recruit a prize. When, therefore, a political party chuses to fix on an individual of this complexion, and elevate him, like the skin of Zisca, to be a sign and a banner to its followers; it is not even the circumstance of his having just submitted to the common lot of all men, fertile though it be in reasons for sheathing acrimony and eschewing violence, that can bar the right to sift the merits of the legacy thus transmitted to the world.

- If the testator had confined himself to matters within his own compass,—to things which he had studied impartially, or even had studied at all,—on which, in short, he had acquired that rough and practical portion of knowledge which they 'whose talk is of bullocks' generally think it proper to acquire of the subject of their discourses,—he might have passed for an authority, to the extent that authority is due *in suâ cuique arte*. But it is precisely when he eschews this safe path,—when he forsakes poetry to struggle with the harsh realities of the national debt,—abandons Ennius whom he understands, to run a tilt at Malthus whom he does not,—volunteers a defence of Negro slavery, and propounds bad jokes and vulgar puns against popular education and its promoters,—that he provokes a sarcastic examination of the flights the shoemaker has made beyond the limits of his last.

First, take his coarse, indecent attack on Malthus,—couched in language which is banished by common consent from all society above the lowest, as conveying only the bitterness of hostile opinion without its energy.

'Is it not lamentable—is it not even marvellous—that the monstrous practical sophism of Malthus should now have gotten complete possession of the leading men of the kingdom? Such an essential lie in morals—such a practical lie, in fact, as it is too! I solemnly declare that I do not believe that all the heresies, and sects, and factions, which the ignorance, and the weakness, and the wickedness of man have ever given birth to, were altogether so disgraceful to man as a Christian, a philosopher, a statesman, or citizen, as this abominable tenet. It should be exposed by reasoning in the form of ridicule. Asgill or Swift would have done much; but, like the popish doctrine, it is so vicious a tenet, so flattering to the cruelty, the avarice, and sordid selfishness of men, that I hardly know what to think of the result.'

This is the way in which a deserter from the popular cause and Tory pensioner, thinks it decent to speak of 'a Christian, a

philosopher, a statesman, and a citizen,' an individual of spotless reputation in both public and private life, for the crime of having asserted, that men cannot live to a greater extent than they are fed. Did it never occur to the puffed-up partisan, that what had 'gotten complete possession of the leading men of the kingdom,' might by possibility bear about with it some inward marks of truth, even though one who undoubtedly thought himself a *casus omissus* of the 'leading men,' happened not to know a word about the matter. It may be true that Malthus had only half wrought out his own discovery;—that he had rested in the portion of it which apparently bears hard upon the masses of mankind, and left to others the displaying of the light his principle ultimately throws upon the wrongs of the numerous classes, and their origin. But it is clear he is not dragged through the kennel of Mr. Coleridge's vulgarity for this. It is for what he has done, not what he has left undone, that he is honoured with the enmity of the ignorant champion of darkness and abuse.

Colonization affords the poet another occasion of showing his 'Georgian ignorance' of the common interests of man. The vulgar oppression of the landlords, is metamorphosed into 'God holding out his finger to us over the sea.' Why are men to allow their own country to be made untenable, for the sake of gratifying a visionary with a 'colonization of hope' beyond the ocean?

Machinery presents to him another opportunity for floundering in inaccuracy far below the ordinary standard of an 'Apprentices Society.'

'The wonderful powers of machinery can, by multiplied production, render the *arte facta* of life cheaper, but they cannot cheapen, except in a very slight degree, the immediate growths of nature, or the immediate necessities of man. A coat and a pair of shoes are as dear now as ever they were, perhaps dearer, and no discoveries in machinery can materially alter the relative price of beef and mutton. Now the *arte facta* are sought by the higher classes of society in a proportion incalculably beyond that in which they are sought by the lower classes; and therefore it is that the vast increase of mechanical powers has not cheapened life and pleasure to the poor as it has done to the rich. In some respects, no doubt, it has done so,—as in giving cotton dresses to maid-servants, and penny gin to all. A pretty benefit truly !'

Machinery, it seems, cannot make *all things* cheaper. Has it been tried? Is not the making an honest use of the produce of machinery, prohibited by law? Do we not live in a country where commerce is illegal, and trade put down by Act of Parliament; and was not the propping of this state of things, one of

the immediate objects of the writer? Where machinery *does* make things cheaper, as in the case of the dresses of the working-classes, there the wisdom of the poetical philosopher is to declare it to be no benefit at all; and where it *might* make other things cheaper, there the application is to be prohibited.

But the passage on the 'National Debt' is the one on which the state of information of the Tory great man, is with most advantage to be compared with the standard of illumination among the laborious and necessarily imperfectly-educated classes.

'What evil results to this country taken at large from the national debt? I never could get a plain and practical answer to that question. As to taxation to pay the interest, how can the country suffer by a process under which the money is never one minute out of the pockets of the people? You may just as well say that a man is weakened by the circulation of his blood. There may, certainly, be particular local evils and grievances resulting from the mode of taxation or collection; but how can that debt be in any proper sense a burden to the nation, which the nation owes to itself, and to no one but itself? It is a juggler to talk of the nation owing the capital or the interest to the stockholders; it owes to itself only. It is really and truly nothing more in effect than so much money or money's worth raised annually by the state for the purpose of quickening industry.'

Here is manifestly a man who does not know the difference between the mischief of throwing away the substance of the debt, and the utility of attempting to remedy the mischief afterwards by refusing to pay the interest. What would be said of an individual in the lower classes of society, who should display such an absence of information? What use, in fact, *could* be made of it, except to employ it as an argument against Universal Suffrage? And here is the Tory philosopher, the *welt-weiser* as he would be called in German, struggling with the same paltry piece of darkness. These be your gods, O Israel! and these the calves to which you are invited to bow down. There needs no other type or exposition, of the system of flat deception of which Toryism is constituted, than the putting forth the meagre fraud that the contracting of a debt is no loss or evil to a nation, because 'it is really and truly nothing more in effect than so much money or money's worth raised by the state *for the purpose of quickening industry.*' How poor must be the intellect of a people, upon whom such a plea could be attempted with success! How imperfect the necessity for union and education, in a country where such raw delusions still constitute part of the stock in trade of the governing authorities!

What may be the precise drift of the following dictum con-

cerning Landlords, it is not so easy definitely to say ; but there can be little danger in believing, that in some way or other it is 'miching Malhecho' and means mischief.

'When shall we return to a sound conception of the right to property—namely, as being *official*, implying and demanding the performance of commensurate duties? Nothing but the most horrible perversion of humanity and moral justice, under the specious name of political economy, could have blinded men to this truth as to the possession of land, the law of God having connected indissolubly the cultivation of every rood of earth with the maintenance and watchful labour of man. But money, stock, riches by credit, transferable and convertible at will, are under no such obligations; and, unhappily, it is from the selfish autocratic possession of *such* property, that our land-holders have learnt their present theory of trading with that which was never meant to be an object of commerce.'

What is visible upon the face of this, is that there is a misstatement of the foundation of the right to property. It might as well have been said that the right to property was *religious*, and therefore was only inherent in bodies ecclesiastical. The right of property rests simply on the fact, that it promotes production; and the time is not far off, when the invasions of the right of property created and maintained by the unjust distribution of the legislative influence in the community, will be more than any form of unsound words will be able to protect.

On the greatest of all invasions of the right of property, Slavery, the unhappy individual is found opposed to all the intelligence and virtue of his age and country. He might be able to extract poetry from moonbeams; but all the glorious fabric reared by industry and freedom in the modern world, is to him evidently only a pestilential congregation of vapours. If he cannot make the 'artisans of Manchester' and the 'workmen in London' labour by 'servile compulsion,' it is plain that he hotly lusts to use them in that sort. The trampling on the labouring classes, is the religion that is at the bottom of his heart; for the simple reason that he is himself supported out of that last resource of the enemies of the people, the pension-list. .

'It is very strange that men who make light of the direct doctrines of the Scriptures, and turn up their noses at the recommendation of a line of conduct suggested by religious truth, will nevertheless stake the tranquillity of an empire, the lives and properties of millions of men and women, on the faith of a maxim true only, if at all, of England or a part of England, or of some other country—namely, that the desire of bettering their condition will induce men to labour even more abundantly and profitably than servile compulsion,—to which maxim the past history

and present state of all Asia and Africa give the lie. Nay, even in England at this day, every man in Manchester, Birmingham, and in other great manufacturing towns, knows that the most skilful artisans, who may earn high wages at pleasure, are constantly in the habit of working but a few days in the week, and of idling the rest. I believe Saint Monday is very well kept by the workmen in London. I think tailors will not work at all on that day, the printers not till the afternoon, and so on. The love of indolence is universal, or next to it.

The days of representative government, it appears, are numbered. Will the community learn and see, how absolutely impossible it is to remain in a state of political rest or equilibrium, and how irrecoverably they are pressed between the two horns of the dilemma, of either going back to the arbitrary power and prerogative of barbarous ages, or going forward towards the liberty with which the most highly-favoured countries have been made free?

‘I have a deep though paradoxical conviction that most of the European nations are more or less on their way, unconsciously indeed, to pure monarchy,—that is, to a government in which, under circumstances of complicated and subtle control, the reason of the people shall become efficient in the apparent will of the king. As it seems to me, the wise and good in every country will in all likelihood become every day more and more disgusted with the representative form of government, brutalized as it is and will be by the predominance of democracy in England, France, and Belgium. The statesmen of antiquity, we know, doubted the possibility of the effective and permanent combination of the three elementary forms of government, and perhaps they had more reason than we have been accustomed to think.

‘You see how this House of Commons has begun to verify all the ill prophecies that were made of it,—low, vulgar, meddling with everything, assuming universal competency, flattering every base passion, and sneering at everything noble, refined, and truly national! The direct and personal despotism will come on by and by, after the multitude shall have been gratified with the spoil and the ruin of the old institutions of the land.’

The next quotation demonstrates, that the knights of the extinguisher feel anything but safe. It is joy to hear, that ‘a revolution of a most searching and general character is actually at work,’ and yet so wholesome is the operation, that people sleep and gambol, perfectly secure.

• ‘Thirty years ago and more, Pitt availed himself, with great political dexterity, of the apprehension which Burke and the conduct of some of the clubs in London had excited, and endeavoured to inspire into the nation a panic of property. Fox, instead of exposing the absurdity of this, by showing the real numbers and contemptible weakness of the disaffected, fell into Pitt’s trap, and was mad enough to exag-

gerate even Pitt's surmises. The consequence was a very general apprehension throughout the country of an impending revolution, at a time when, I will venture to say, the people were more heart-whole than they had been for a hundred years previously. After I had travelled in Sicily and Italy, countries where there were real grounds for the fear, I became deeply impressed with the difference. Now, after a long continuance of high national glory and influence, when a revolution of a most searching and general character is actually at work, and the old institutions of the country are all awaiting their certain destruction or violent modification,—the people at large are perfectly secure, sleeping or gambolling on the very brink of a volcano.'

It is natural and in course, that such meditations should be found accompanied with vulgar tirades against the 'New-Broomers or Broughamers,' the 'Penny Magazine sages and philosophers,' and Infant and Village Schools. The real state of the case appears to be, that the Tory sophist was a man of little soul, whom chance in his earlier days threw into the way of liberal opinions, and a not uncommon idiosyncrasy of attraction towards the possessors of wealth and power speedily carried over into his proper place. He has had his reward; and 'his works follow him.' The serious use to be made of the whole, is to mark, learn, and inwardly digest, the profound ignorance and barbarism, the remoteness from useful truth and the clinging to all harmful darkness, which characterize the party who boast that to them the deceased poet did belong;—to compare the quantum of their knowledge, and adaptation for public rule, with that of the lowest and poorest collection of democratic elements it would be practicable to frame;—and then judge of the situation of a great country with high and complicated interests, if it were possible to conceive it to be really the design of an overruling Providence, that with men so dark, so untaught, and so rootedly unjust, the power of the state should finally remain.

CORRECTIONS IN THE PRECEDING NUMBER.

In No. XLIII, p. 231, bottom line, del^d totale.

p. 236, in § 6, l. 2 and 3 of left-hand column, for commerce read competition. Also in the same §, l. 3 of right-hand column, for concurrence read competition.

p. 246, in § 23, l. 5 of right-hand column, for cost read last.

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